Robert McClintock on *The Revolt of the Masses*

THE NEW REPUBLIC

A Journal of Politics and the Arts—April 15, 1972, 50 cents

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Vietnam—What Now?

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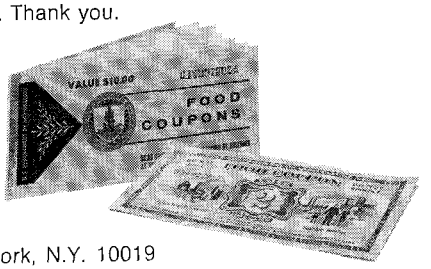

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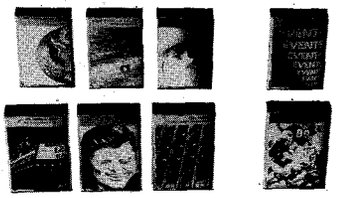

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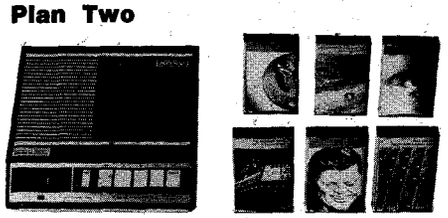

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Bomb and Bust

More bombing equals more inflation.

That formula has been true ever since Lyndon Johnson mistakenly assured the nation that we didn't need controls in the Vietnam war because our economy was so huge.

The formula also spells the biggest crisis for President Nixon since he took office. The Communist attack from North Vietnam indicates that his policy of Vietnamization is faltering. And continuing inflation at home indicates that Phase II is faltering. So he is threatened by a pincer movement seven months before election. He may find a way out but it will take agility.

Vietnamization was supposed to mean that our client state could go it alone. As Senate majority leader Mike Mansfield said last week, "We have trained, equipped, paid for and subsidized them for 17 years, and they have an army of one million troops; we have done enough." Or as Mr. Nixon said, March 4, 1971, "... the South Vietnamese by themselves can hack it, and they can give a better account of themselves even than the North Vietnamese units. This means that our withdrawal program, our Vietnamization program is a success...."

Well, maybe. As this is written our government is speeding aircraft carriers and rushing up big bombers. But Senator Mansfield calls Vietnam "an American tragedy." The enemy now controls "one-half of Laos; two-thirds of Cambodia," he says, and he suspects it is stronger in South Vietnam than admitted.

The point, though, for a good many citizens paying their income tax bills is that war costs money. You can pay for it in direct taxes or in inflation, which is an indirect tax. The whole great rise of America's present inflation came from Vietnam. Before it, the nation had the longest period of uninterrupted prosperity in its history, and most of it with rather remarkable price stability. Then came Vietnam. We watched the thing here in Washington; we remember the easy assurances from President Johnson over worried economic advisers that no particular war taxes were needed, certainly no controls. And taxes weren't voted till too late. We have had four years of economic turbulence at a cost of 25 percent idle plant capacity, 5 million unemployed and 5 to 6 percent inflation. Yes, and all those thousands of young, dead Americans.

The link-up now with Mr. Nixon's economic Phase II is quite simple: the new Vietnam cost, if we extend operations, comes just when Phase II threatens to bog down; it's touch-and-go. Otto Eckstein of Harvard is no amateur; he was a member of the President's Council of Economic Advisers and now runs Data Resources, Inc. This is the way he puts it: when the rise in consumer prices exceeds 2½ percent for two years the public gets "sensitized" to the inflation factor. That's the critical period. Everybody adjusts to the prospect of rising prices, particularly wage-earners. Their claims start to rise in a wage-price spiral that is "explosive."

That's what happened in 1969-70 until Mr. Nixon suddenly, sensibly switched to direct action and imposed a three-month freeze. Then came Phase II. But it hasn't been tough enough or successful enough to persuade workers that they shouldn't take wage steps for their own protection. Over the last three months consumer prices are up 1.2 percent; over the last six months, 1.6 percent; over a year, 3.7 percent; over two years, 8.7 percent.

"A worker would have to be a fool to believe that the inflation in the prices that his family pays is over," says Eckstein bluntly.

So long as prices go up, the rate of wage increases will exceed the supposed guidelines. You can squeeze the balloon here but it will bulge *there*. It's not good for the country. It produces an extraordinary savings rate as unhappy families try to meet the situation by cutting back expenditures; it reflects itself sooner or later in rising interest rates, which is happening now.

So what to do? Eckstein and a lot of others think that Phase II must be revamped; it can't be allowed to fail; it must be toughened. Wrong? Possibly. But it is doubtful if the aloof and insecure man in the White House will let things go on much longer the way they're going. The new jump in food prices endangers the whole program.

What a dilemma for a President before election. Rising farm prices mean votes in the farm states, but rising consumption costs mean lost votes in the cities. All that and Vietnam, too. The administration has come through with a lot of explanations—middle-men costs, transportation, and the like. They sound a bit hysterical. "The administration has decided to keep farmers immune from the stabilization program and to focus only on the retail stage," observes Eckstein quietly. "This procedure," he adds, "is void of economic validity."

Why are farm prices high? Simple enough; because Congress and the President keep them high. Economists call something a "market economy" where the market—buyers and sellers—decide prices and how much is produced by supply and demand. The US doesn't have a market economy in agriculture. Executive and legislative decisions determine how much is grown, what the support prices will be, what outside farm goods and in what quantities are permitted to enter the country, and what income farmers will get.

Just at a time when the new secretary of agriculture is striking out for high meat prices (without any ifs, ands, or Butz) economists are telling Mr. Nixon that it won't work; that you can't expect workers to follow a wage stabilization program while farm prices are allowed, nay encouraged, to rise. With prices rising, it's "unreasonable" to expect labor to accept a 5.5 percent pay target.

A long way from Vietnam? Maybe. But these matters are coming together on a collision course. Will we expand the inflationary cost of war? "It won't cost much, we can do it cheaply." That's what they told Lyndon in 1965. There are moral issues involved too, but some congressmen are more immediately aware of the pocketbook nerve which is beginning to jump. We would expect a new price-wage freeze before long, if Mr. Nixon wants to get reelected. This would include farm goods. We would guess the President might ask the biggest industrial companies to freeze all price actions for three to six months. And if he is wise he will let South Vietnam alone. The milk there is spilt.

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Vietnam—What Now?

Barry Goldwater was overwhelmingly rejected by the voters in 1964, because they didn't want a wider, worse war and Goldwater's advice (resubmitted last week) that we bomb and bomb and bomb made them nervous. As Hubert Humphrey said at the time, Americans did not want a President with "a nervous finger on the nuclear trigger." In the ensuing four years the war was enormously widened and yet nowhere nearer being won. And in 1968 voters rejected Hubert Humphrey, in part because he could not or would not disassociate himself from the policies that kept the war going. He lost to the candidate who said, on March 5, 1968, "I pledge to you the new leadership will end the war and win the peace in the Pacific." And here we are, facing the prospect that these two, Humphrey and Nixon, may again compete for the presidency. No wonder a recent opinion survey by a team of psychologists from the University of Connecticut finds that the public, asked to rate the competence and altruism of 20 occupations, puts politicans next to last, just above used car salesmen.

The administration's first response to the present military offensive by the North Vietnamese and the Vietcong was to order more bombing, simultaneously putting out the word that the White House was keeping all options open. The impression was allowed to stand that quite a few options are available. They are, but only in theory, not in practice. Unless the President were to reverse his withdrawal schedule, by next month US forces in Vietnam will have gone down from over a half million to about 70,000. The 70,000 could still do, and suffer, considerable damage, but the option of resuming large-scale ground combat in Vietnam has been foreclosed; it is unthinkable politically. The bombing and shelling from the sea and the B-52 raids from Guam and Thailand can be kept up and stepped up, but the enemy's antiaircraft defenses are getting more sophisticated, and if there is one thing that should have been learned in the past seven years, it is that the war will not be ended by air strikes. We can follow a scorched earth policy, level more villages, kill more people; the outcome will still be determined not from the air but on the ground. Goldwater's formula for victory through air power made no sense in 1964; it makes none today.

The President certainly has the option of reconvening the talks in

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Paris, but that course could only be productive if he were prepared to settle for far less than he has been in the past. So what is there left for him to do? He can take evasive action, designed not to get us out, but to provide protective cover for candidate Nixon at home. He can do this by inferring that his domestic critics have an affinity for Communism, which Lyndon Johnson found somewhat useful on occasion. That is a strategem natural to Mr. Nixon; he is practiced at suspecting that advocates of total withdrawal are dupes of the enemy, unwitting of course and not necessarily unpatriotic. There will always be a clientele for that insinuation, but it's getting smaller. The gullibility of the public has limits, and the limit has been reached: every recent national sampling shows that a majority of Americans have had enough of Vietnam.

The President also has the short-term option, which he is exercising, of keeping his opponents off balance by the claim that we need to bomb the North to protect our withdrawing forces. (Conversely, indiscriminate bombing of the North risks the lives of our POWs there.) The claim is so transparently fraudulent it cannot stand frequent repetition. For it asks us to believe that Hanoi and the Vietcong *want* to impede US withdrawal, whereas common sense tells us they would be happy to help carry out any plan for rapid and total evacuation. Nearly three years have passed since Mr. Nixon first announced his schedule for troop cutbacks, on May 14, 1969. Eighty percent of our forces in Vietnam have since been taken out. (By comparison, 80 percent of American forces were withdrawn from the China-Burma-India theater within six months after the end of World War II.) Just as the President has the authority to step up the bombing, he has the authority to step up the withdrawal rate, thus permitting true Vietnamization of the war.

This has been the longest, least justified conflict in our history, and it has been the costliest. Military spending jumped from $42 billion in fiscal 1960 to an estimated $76.5 billion in fiscal 1973. As of the 25th of last month, 45,659 Americans had been killed in action in Vietnam, 302,787 wounded. We have trained, paid and equipped with the most advanced weapons a Vietnamese army in the South far larger than its Vietnamese foe. We have trained, paid and equipped thousands of mercenaries from Korea and Thailand. We have underwritten at staggering expense the entire southern economy, and underwritten as well the corruption that has accompanied our investment. We have witnessed the demoralization of our fighting men, the deaths of at least two million Vietnamese, and the homelessness of another 10 million. We have had Tiger Cages, heroin addiction, and Mylai. Twelve years later, the President's only realistic option is to face the truth that the war was a mistake from the start, make known our determination to cut loose, and negotiate whatever settlement he can now get.

Secret Documents

For refusing to answer nine questions put to him in Boston by the grand jury investigating the Pentagon Paper, Samuel Popkin, an associate professor of government at Harvard, was found in contempt March 29 and sentenced to 18 months in jail. He's a student of Vietnamese politics and, by hapless coincidence, a professional acquaintance of Daniel Ellsberg, the MIT professor who admits to having given the papers to the press. Popkin told the grand jury that he hadn't read a word of the secret documents before they were printed in *The New York Times*, that he knows nothing about the way they reached the press, and that he has never met Neil Sheehan, the reporter whom the government hopes to indict if it can find the right evidence. Nevertheless, Popkin spent about six hours on March 27 before the grand jury, answering certain questions about his work and refusing to answer 13 others, nine of which the judge cited in the contempt ruling. These, Popkin says, were requests by the government for him to speculate on who might or might not have had access to the Pentagon Papers and who might have given them to the newspapers. He wouldn't cooperate because, as he says, "I'm being forced to do the fishing for the government." His appeal, to be heard April 19, is grounded on the arguments 1) that the public will be deprived of needed information if scholars like himself can't protect their confidential sources and 2) that the government can't show why his testimony has any bearing on the case. He would have the Court give scholars the same privileges it has given journalists under the First Amendment, based on the precedent of Earl Caldwell. Caldwell is the reporter who's been waging a legal battle to keep the government from seizing his taped interviews with Black Panthers.

The ripples from Ellsberg's act of conscience last June are still being felt as they engulf a growing number of his friends and fellow academics, among whom the government says it has found the conspiracy that leaked the Pentagon Papers. Ellsberg himself was indicted for the second time December 30 in Los Angeles on 12 criminal counts, including theft, conspiracy and other violations of the espionage statutes. Anthony Russo, a friend of his and a former employee of the Rand Corporation, was charged on four counts at the same time. Those are the only indictments so far, but subpoenas have been sent in all directions. The heaviest concentration landed among Ellsberg's neighbor-scholars in Cambridge, Mass., Popkin being the first to give any substantial testimony. Noam Chomsky of MIT, Richard Falk of Princeton and Ralph Stavins of the Institute for Policy Studies in Washington have all been subpoenaed, but have avoided testifying so far because they raised a legal point about FBI wiretapping. Now the government must prove it didn't tap their phones illegally before it can bring them up for

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questioning. The director of the Beacon Press in Boston and Howard Webber, director of the MIT Press, were subpoenaed in connection with publishing Sen. Mike Gravel's (D, Alaska) version of the Pentagon Papers. But the court has ruled that they need not testify because they're protected by Gravel's congressional immunity. So Popkin is the only one available for the moment, and he doesn't have anything to tell.

It's been so long since the litigation began, the government's purpose in bringing these people to court may have been obscured. Last June the Justice Department took *The New York Times* and *The Washington Post* to court to stop them from printing extracts from the secret study because they might cause "grave damage to the nation" or create "a definite break in diplomatic relations." That's what publishing "top secret" documents like the Pentagon Papers is supposed to do. The Supreme Court declined to censor what it considered essentially historical papers, but at least one Justice suggested that the government could go ahead and punish anyone who'd violated security regulations in handling the documents. Thus, the newspapers slipped free, but John Mitchell announced on July 1 that his department would "prosecute all those who have violated federal criminal laws in connection with this matter." Meanwhile, the government rushed to print its own edition of the 47-volume secret study.

The angry summer passed, and since then there have been other security leaks, the biggest of all on January 5 when columnist Jack Anderson released the minutes of a security council meeting at the White House. At the time, these seemed more damaging to national security and more likely to interfere with diplomatic negotiations than the Pentagon Papers, which had had no direct bearing on the present administration or its Vietnam policy. The "Anderson Papers" revealed private discussions, only weeks old, between the President, Henry Kissinger and other executive officers over the touchy issue of the Indo-Pakistani war. Kissinger's reputation was momentarily shaken because there appeared to be a discrepancy between his statements to the press and what he had told the security council in private. He'd said in a background news conference that it was "totally inaccurate" to call the administration "anti-Indian," while in the security council notes he was quoted saying, "I am getting hell every half hour from the President that we are not being tough enough on India." Anderson quoted other confidential remarks, including a cabled grumble from the US ambassador to India.

When he released these papers, Anderson virtually invited the government to take him to court. He said that he'd been shown a complete file of confidential memos and been allowed to pick out the ones he wanted—a clear confession that he'd violated security regulations. But Anderson predicted at the time that government lawyers wouldn't prosecute him because, if they did, he said, "they're going to wind up with bubble gum all over their faces." He claimed his sources were too highly placed to be accused of criminal conduct. If questioned about the Anderson leak today, the Justice Department replies that it has "no comment on matters under investigation." If you ask whether that implies that there *is* an investigation, the statement will be repeated. It took the department five months to work up its indictment on Ellsberg and Russo in Los Angeles, so it seems fair to wait a while longer to see what will happen to the Anderson case, which is only three months old. Circumstantial evidence indicates that the government is working quietly to find out who leaked the papers and remove him from office without a fuss. On February 1 the Pentagon transferred Admiral Robert Welander from his post as White House liaison for the Joint Chiefs of Staff to sea duty based in Charleston, SC. Jack Anderson said shortly afterwards that the administration meant to punish Welander for leaking the secret notes, but had been led astray by erroneous FBI reports. Anderson insists that his real source has not been punished. The administration will not comment.

The government hasn't shown that it intends to take legal action against the document-leaker it now harbors. If it doesn't, the Anderson case, together with Ellsberg's, will stand as a model of the capriciousness of the present classification laws. In the Ellsberg case, two academics have been indicted, and about six others subpoenaed to testify on a "conspiracy" involving the country's largest newspapers, whose crime was to make public a four-year-old, tax-financed study of the Vietnam war. In prosecuting it, the government has already asked Samuel Popkin to violate his professional ethics in order to give hearsay evidence; he could go to jail for 18 months for refusing. If the indictment in Los Angeles holds up in court, Ellsberg could be sent to prison for 25 years or more. In the more recent case, however, neither Anderson nor his source has been threatened with prosecution, though they conspired to publish secret documents about diplomatic negotiations still in progress. The contrast between the two cases points up the central flaw in the present security system: the men who make policy also have power to decide what should be labeled secret, and which leaks will be prosecuted.

COMING: an investigative report by James Polk on political contributions by corporations

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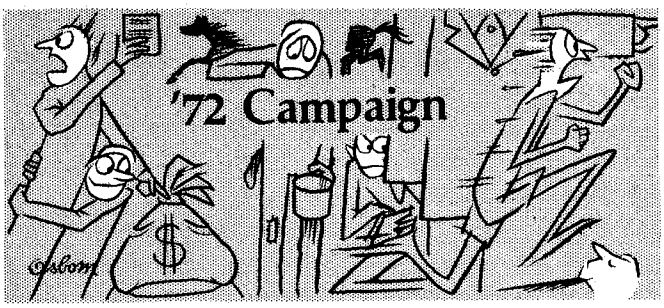

George Does It

George McGovern saved his party from the embarrassment of another Wallace victory, this time in a northern state that is a blend of industrial, rural and student power. For this, his party owes him a vote of thanks. It also owes itself an honest examination of why McGovern not only weathered the Wallace upsurge in the closing days in Wisconsin, but won over thousands of voters leaning to Wallace. McGovern was able to communicate just enough of his personal concern, bolster it with carefully conceived tax reforms, farm policy, cuts in defense spending to sweep seven of nine Wisconsin districts in the state and pick up just under 30 percent of the Democratic vote. He had perhaps the best organization ever seen in a primary state, thousands of hard-working volunteers who patiently went from door to door, following up with personal notes and position papers.

One must question how many of Wallace's 21 percent would have voted for him if they had thought their vote would help put him in the White House. Probably less than one-third, if that. He ran particularly well in three Republican districts (two in the Fox River country and one in suburban Milwaukee) in which there was a heavy crossover. What these voters, who will return to Nixon in large numbers in the fall, are protesting is hard to gauge.

Two weeks before the primary, the momentum was with Humphrey. One can only judge that voters are looking for more than a bundle of energy with a list of promises more relevant to the liberalism of the fifties than to 1972. Once Humphrey had rallied his basic support—old friends who "trust" him—he was through, though it was enough to win him two districts, one adjoining Minnesota and the other influenced by a heavy, loyal black vote.

Muskie's decline, in retrospect, appears inevitable. Here was a campaign top-heavy with high-level strategists, geared to endorsements in a year when people are not favorably disposed to politicians. He assumed that Democrats would appreciate his singular advantage as the man to whip Nixon in the fall. It wasn't enough, and unless his campaign can evoke a genuine popular response soon, his best course would be to withdraw—which is what Lindsay did. That, too, was inevitable. From its inception, the mayor's campaign was based on the premise that hot-shot operatives from city hall could fan out around the country, use the media to manipulate, and sell Lindsay as the spokesman for people who distrust Washington. It's true Washington isn't popular, but neither is New York.

Humphrey and Muskie will be hard pressed, despite the backing both have from the leadership in industrial states such as Pennsylvania, Ohio, Indiana and Michigan. Consider the blue-collar breakdown in Wisconsin—McGovern, 29 percent; Wallace, 21; Humphrey, 20.1; Muskie, 11; Jackson, 8. AFL-CIO officials were mostly in the Humphrey and Muskie camps; yet, a clear 50 percent of the workers broke to the left or right. Nor can Muskie or Humphrey depend upon the blocs of ethnic voters in Pennsylvania, Ohio, Indiana and Michigan. From Milwaukee's South Side (Polish) district, the returns were: McGovern, 38,000; Wallace, 24,000; Humphrey, 22,000; Muskie, 22,000. In the Fox River Valley, with its heavy Catholic but conservative vote, McGovern ran first with Wallace a close second. The trend in upper-middle-class cities was the same: McGovern, 29; Wallace, 24; Humphrey, 15; Muskie, 8. Farmers were no different, and of course the students were strongly pro-McGovern.

McGovern's strategy calls for concentration on Massachusetts where he hopes to wipe out the hapless Muskie bid. Beyond that, he must go for broke in the delegate-heavy industrial states—Pennsylvania (April 25), Ohio (May 2), and Michigan (May 16), before taking off for the West Coast and Oregon (May 23) and California (June 6). If he's to build a winning coalition, McGovern must find a way of reaching minority voters—black and brown—who've ignored his candidacy thus far. And he must substantially broaden his appeal to blue and white collar workers, though he's off to a good start, by talking sense about such things as crime and schools.

The System and the Men

"It's a circus," says Majority Leader Mike Mansfield of the primary season. Along with the GOP's Hugh Scott, he favors a national primary. "A carnival," concurs Rep. Morris Udall, who wants a less severe modification of our system of nominating presidential candidates. Udall has introduced a bill allowing states to hold primaries on only one of three specified dates in April, May, or June. Primary states could pick the "round" in which they wanted to participate, and a candidate entering any of the primaries in April, for example, would be required to run in every state voting at that time. Non-primary states are not covered in Udall's legislation; they could hold state conventions whenever they saw fit.

The Mansfield-Scott national primary and Udall's grouped primaries have common shortcomings without reaching the problems that seem to bother their sponsors. Neither solves the problem of rising cam-

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paign costs. Both force candidates to run in many states simultaneously, thereby promoting an even heavier dependence on media and money. Moreover, the need to seek votes in many states at once would cause further inflation in the size and cost of each candidate's staff, and further tax his personal energies.

But the most important drawback of these plans is that they inherently advantage the incumbent or frontrunner, thereby undercutting an important function of the nominating process. The McCarthy-then-Kennedy insurgency was possible in 1968 only because momentum could be built through a series of tests. Any nominating system which forces a single, conclusive test with the frontrunner diminishes the possibility of an effective challenge within the party.

The current primary system can be improved, but what's to be done about the candidates? On nationwide television from New Hampshire, captivating Edward Coll dangles a rubber rat, "Scoop" Jackson flashes a waffle iron at the crowds, and the patrician John V. Lindsay sacks out for the night on a working man's couch. In Florida, Hubert Humphrey takes off another fig leaf with television spots attacking welfare chiselers. And after George Wallace walks off with a victory in that "microcosm of the nation," all the candidates arrive in Wisconsin with a little more Alabama in their rhetoric. This is the behavior that tries the public's trust. But there's nothing in the Udall or Mansfield proposals to prevent it, nor could there be.

Massachusetts

Although Rep. Louise Day Hicks (D, Mass.) is considered vulnerable in her new district, there's so much competition she could well survive the primary, then fall victim in November to a GOP opponent—State Sen. John Quinlan. The list of potential opponents includes two blacks—Hubert Jones, director of Roxbury's multi-service center; and Mel Miller, publisher of the *Bay State Banner*, a Roxbury weekly; three Irish pols of varying distinction and outlook—State Sen. Robert Cawley; James Hennigan, a member of the school committee; and State Sen. John Joseph Moakley, who beat Mrs. Hicks in some South Boston wards last time.

Elsewhere in Massachusetts: John Kerry of Vietnam Vets Against the War has changed his plans. Instead of taking on aging Rep. Harold Donohue (D) in the Fourth District (Worcester), he'll go after the seat being vacated by Rep. Brad Morse (R), a district which includes part of the suburban sprawl north of Boston and is considered more receptive to an antiwar activist than Donohue's industrial constituency.

California Delegates

Slates for the seven Democratic presidential candidates entered in the California primary show a high degree of conformity with the McGovern Commission guidelines; no matter who wins June 6 there's not likely to be a challenge at the national convention. According to the various candidates' staffs, the composition of the slates is as follows: *Muskie:* 48 percent women, 17 percent black, 15 percent Chicano, 26 percent young (under 30); *McGovern:* 51 percent women, 19 percent black, 19 percent Chicano, 40 percent young; *Humphrey:* 48 percent women, 16 percent black, 17 percent Chicano, 20 percent young; *McCarthy:* 47 percent women, 5 percent black, 15 percent Chicano, 45 percent young (estimated); *Chisholm:* 55 percent women, 35 percent black, 10 percent Chicano, 25 percent young; *Jackson:* 43 percent women, 10 percent black, 13 percent Chicano, 20 percent young; *Yorty:* 50 percent women, 15 percent black, 20 percent Chicano, 17 percent young.

Delegates were selected by a new procedure this year that seemed to work. Each candidate held caucuses throughout the state, open to any registered Democrat; some 18,000 persons took part. The caucuses elected nominees for the 238 delegate and 103 alternate positions, and final selections were made by a statewide committee chosen by each presidential candidate. Occasionally a major contributor or political figure was rejected by his district caucus and was put on the slate by the statewide committee. A few other adjustments were made to achieve racial and sexual balance. Only Humphrey's slate had more than 10 percent noncaucus nominees.

The primary is a winner-take-all affair, but in the interest of party unity the winner will be allowed to pick 33 additional delegates after the primary. Presumably they will be party warhorses who placed early bets on a loser.

Fulbright & Friend

With its decision to investigate multinational US corporations, the Senate Foreign Relations Committee may get a new lease on life. Over the past four or five years the committee appeared to be redressing a balance of power in the foreign policy realm that had shifted to the executive branch. It served as the fountainhead of criticism of the Vietnam war. It challenged Nixon's decision to build an anti-ballistic missile system, and in the process created a much more critical congressional attitude toward once sacrosanct national security decisions. Without such prodding from the committee, it is doubtful that the Senate Armed Services Committee would be holding public hearings on whether several hundred million more dollars should be committed to the Navy's troubled F-14 aircraft. Using foreign aid legislation as a vehicle, it also succeeded in imposing various restrictions on

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what the executive branch can do in such countries as Laos or Cambodia with American troops and money. It sponsored legislation circumscribing the war-making powers of the presidency.

In recent months, however, the committee has gone slack. Illustrative of this was William P. Rogers' appearance before it on his department's budget. As a way of asserting control, the committee had earlier secured legislation requiring annual authorization of the State Department's budget. But when the first authorization hearing came, instead of using the occasion to examine the department's allocation of resources or make a diplomatic *tour d'horizon*, as had been expected by Mr. Rogers—the committee went off on tangents about Radio Free Europe and the Southeast Asian Treaty Organization. Almost gleefully, State Department officials went back downtown convinced they no longer had to worry much.

On the broad policy front, the committee admittedly has been neutralized by the President's initiatives toward Peking and Moscow, which committee members such as Senator Fulbright applaud. But beyond the policy issue, it looks as if the administration has been intent on neutralizing the committee through deliberate noncooperation. Through explicit but more frequently implicit claims of executive privilege, the administration has been withholding information sought by the committee, such as the recent refusal to hand over country programs of the U S Information Agency. Executive privilege—which also protects Henry Kissinger from direct questioning by the committee—is not new but at least in the past the committee found it could usually obtain the information it wanted on an informal basis. Now the informal contacts between the committee staff and the executive branch are drying up.

Mr. Rogers had first refused to appear in open session to discuss State's grievance procedures. Then when he did show up in executive session, presumably for a foreign policy discussion, he announced he could only stay an hour or so because he had an appointment at 11:30 a.m. with Soviet Ambassador Dobrynin. That appointment had been made only a couple of days earlier, whereas Mr. Rogers' appearance before the committee had been arranged three weeks earlier. In the diplomatic world that would be interpreted as a deliberate slight, and it was certainly so viewed by several committee members.

According to associates, Mr. Rogers has been given the assignment of serving as "free safety" to stop Senator Fulbright from making any big gains against the administration foreign policy, a role that Rogers likes to play in affable matches on the golf course with the committee chairman rather than in formal confrontations. For the committee, this admixture of official noncooperation on information and personal affability complicates fulfillment of its role. Basically the committee is attempting to assert a senatorial right to give the executive branch advice and consent on its foreign policy. But that's hard to do if the executive branch refuses to tell what is going on and the secretary of state declines to consult at any length with the committee.

John Finney

MR. FINNEY *is congressional correspondent for* The New York Times.

In the Public Interest

Freezing Consumers

With all the flap about the Pay Board, too little attention has been given to the Price Commission, headed by amiable C. Jackson Grayson, a former business school dean. The commission is crucial to any attempt to cool the fires of inflation, yet it is failing.

Since Phase II began last November, all components of the Wholesale Price Index have been accelerating faster than before the 90-day freeze imposed in mid-August. For example, prices of finished goods went up during Phase II at twice the rate observed before the freeze, while industrial commodities are galloping along at a 6 percent annual rate. This wholesale bulge is passed on to consumers at retail.

Predictably, corporate profit forecasts for 1972 are up too. A little-noticed study done last December by the New York investment banking firm, Goldman, Sachs, and Co., analyzed Price Commission profit margin and price guidelines and concluded that corporations will be able to boost their after-tax profits by 17 to 22 percent in 1972. Since few industries are boasting about their productivity increases, it is clear that the consumer will pay for the Price Commission's rubber-stamping of industry price increases.

Figures put out by the Bureau of Labor Statistics show that despite inflation, the average worker during the six months preceding the freeze got a 2.8 percent increase in real earnings. That wasn't bad, but during the past half year of economic controls, real worker-earnings declined .34 percent.

Since Phase II started, the Consumer Price Index has gone up at an annual rate of almost 5 percent—twice the goal of the President's stabilization program. (During the six months before the freeze, the Consumer Price Index was up at a rate of 4.1 percent). The Wholesale Price Index during Phase II has increased at an annual rate of 7.7 percent. These unfeeling statistics only confirm what everyone sees in the supermarkets and department stores. It's not just meat prices and other fresh foods that are climbing; many other products and services are also. Who and where's the

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culprit? Some businessmen blame it all on unions. The facts contradict them. The large majority of American workers are not unionized and do not receive the highly publicized percentage wage increases that a few relatively strong unions get. Moreover, families earning less than $6900 a year are bearing the brunt of inflation.

The Price Commission's closed door procedures make it almost impossible for a citizen to know what it's doing, or why. Companies submit information to back up their price increase requests. The commission keeps the information secret and releases its one-line price decisions without substantiation. The commission has refused to hold any formal public hearings on any proposed change in prices, rents, interest rates or corporate dividends, though the law urges it to hold such hearings "to the maximum extent possible." There is no consumer participation in the Price Commission's work. Only companies participate, and when they make contacts with commission staff on the sly, the public doesn't know about it. In addition, there is no disclosure of price increases made in violation of the law. So despite nearly 20,000 cited violations, consumers don't have specific information on which to base demands for rebates, which altogether might total millions of dollars.

Unless the Price Commission throws open its doors to consumers, it will continue to be the captive of special corporate pleaders who routinely get the price increases they want.

Ralph Nader

The First Opinions of Justice Rehnquist

The Supreme Court used to have a courtly custom of hospitality towards its new Justices. By tradition, the Chief Justice would select a case in which the entire Court was in agreement—or where its vote was almost unanimous—and assign it to a newcomer for his first majority opinion. This was supposed to launch a fledgling Justice on his Supreme Court career with a consensus, even if he later developed into an inveterate dissenter.

It is probably a sign of the divisions now within the Court that both Justices Lewis Powell and William Rehnquist issued their maiden majority opinions during the week of March 20 in cases where the Court divided 6-to-3. Rehnquist's decision upheld a Florida murder conviction while Powell's rejected the government's interpretation of a provision of the federal tax laws. The libertarian majority of the last years of the Warren Court—which often sustained the government in business-regulation and tax cases and even more often rebuffed it when the rights of criminal defendants and individuals were at stake—has now been supplanted by a majority whose approach is more business oriented and less receptive to the claims of individuals.

In less than 20 pages of views issued during the week of March 20, Justice Rehnquist made it plain that the sharp conservative opinions he had expressed publicly as assistant attorney general were not merely a lawyer's advocacy of his client's cause; they represented what he believes. The first thunderbolt came on Monday, in a long Rehnquist dissent from the Court's brief ruling on a claim made by a Buddhist in a Texas prison, who had charged he had been denied access to the prison chapel and punished for disseminating religious literature in prison. Even Chief Justice Burger and Justice Blackmun—whose record last term established that they were not judicial activists—agreed that he was entitled to a hearing in a federal court on his claim of religious discrimination. Justice Rehnquist alone disagreed, asserting that the courts were being deluged with papers filed by "writ-writers" in jails, who compose baseless claims for themselves and others. He also implied that the constitutional guarantees of due process of law and equal protection of the laws were not intended by those who had drafted the Fourteenth Amendment to reach inside prison walls—a proposition that is squarely contrary to unanimous Supreme Court decisions.

On the same day, Rehnquist joined a separate opinion by Chief Justice Burger in an obscenity case. The message was clear: states and cities may, if they wish, enact laws declaring it a public nuisance for drive-in theaters to show films with "sexually explicit" scenes even if the film shown cannot constitutionally be considered obscene. Neither Justice Blackmun, who has cast his vote with Burger in every other obscenity case since he joined the Court, nor Justice Powell agreed with the Burger-Rehnquist view.

On Tuesday, the Florida murder case was decided. In 1967, the late Hugo Black had written an almost-unanimous decision establishing the rule that a constitutional error in a state criminal trial may be overlooked by an appellate court only if it can be shown "beyond a reasonable doubt" not to have affected the jury's verdict. Justice Rehnquist's opinion concluded that this exceedingly high standard was met in a case where a very damaging confession of a co-defendant had been improperly read to the jury and had strongly implicated the defendant whose case was before the Court. This was true, he said, because the defendant's own confession (which he had challenged as involuntary) had overwhelmingly established his guilt. The Florida court had not relied on this reasoning in the ruling which the Court was reviewing, and the dissenters pointed out that since it was impossible to tell

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how the jury had evaluated the defendant's own confession—and, therefore, whether that confession was competent evidence at all—the co-defendant's incriminating statement could not have been harmless beyond a reasonable doubt.

On the following day, Justice Rehnquist was joined by the three other Nixon appointees in a dissent he wrote from a 5-to-4 decision overturning a Texas statutory rape conviction. The defendant had been asked, when he testified in his own behalf, whether he had not been convicted of felonies on four prior occasions. The four convictions had antedated the Supreme Court's landmark *Gideon* case, and the defendant said that in none of the cases had he been represented by a lawyer. Certified copies of the records in two of the cases corroborated his statement; in the other two there was no indication whether or not a lawyer had been present. The Court's majority concluded that this use of uncounseled convictions affected the fairness of his conviction. Three dissents were written, and two of them (those of the Chief Justice and Justice Blackmun) have very narrow implications. Justice Rehnquist's dissent, however, was more sweeping. He questioned the ability of federal courts to make factual determinations on petitions for habeas corpus and suggested that the defendant had not *proved* he could not afford a lawyer or that he had not voluntarily waived the assistance of counsel. Rehnquist's opinion—reminiscent of his dissent on the prisoner case two days earlier—began with the observation that the defendant had been found to be a liar by the federal district judge. (Justice Stewart, writing for the majority, observed caustically that it was "highly unrealistic" to think that there had been a "waiver" of a constitutional right which did not yet exist.)

The appellate courts have, thus far, kept trial judges from dismissing prisoner petitions out-of-hand as "frivolous," and often, on close study, they are found to have merit. A legal doctrine that would license prompt dismissal of these claims—as Justice Rehnquist urged in the Buddhist prisoner case—would lighten the workload of courts, but at the expense of substantial rights. Similarly, by expanding the "harmless error" rule in criminal cases raising constitutional violations (in the Texas case, the convictions occurred more than 30 years ago), the courts will be able to reject their claims more readily—even if some true charges are thrown out with the false. A cardinal principle of our system of justice—stated by the eighteenth century legal philosopher, William Blackstone, as "better that ten guilty persons escape than one innocent suffer"—would be violated.

Nathan Lewin

MR. LEWIN is a Washington attorney who was formerly an assistant to the solicitor general and a deputy assistant attorney general.

Some Perils of Poverty Law

Early this year Vice President Agnew meddled in a lawsuit brought by local OEO lawyers against the mayor and housing officials of Camden, New Jersey. The case is a class action on behalf of poor people who are being evicted from their homes to make way for urban renewal projects. Adequate provision for relocating them, as required by state and federal law, had not been made, it is charged. Camden officials, instead of correcting the alleged abuses or negotiating seriously with the plaintiffs, launched a barrage of criticism against the Camden Regional Legal Services and called on the Vice President for support. Agnew met with OEO officials, aired his own dissatisfaction with federally funded poverty lawyers who take action against local government agencies, promised a nationwide investigation of the Legal Services program and suggested that it might be well to terminate funds for the Camden office.

Fred Speaker, then director of the OEO Legal Services headquarters in Washington, looked into the case and decided the Vice President's attack was unjustified. He noted that the misconduct of city officials against whom the suit was directed was serious and persistent. A May 20, 1968 report by the division of civil rights under the New Jersey attorney general had concluded that: "The Housing Authority of the City of Camden and the Division of Urban Renewal are operating in flagrant violation of New Jersey's Law Against Discrimination . . . and the Relocation Assistance Law of 1967. . . . It is evident that there is a wanton disregard for the rights of the poor, white and nonwhite, by the appointed officials administering the Housing Authority and Urban Renewal program." A Housing and Urban Development report found similar faults, and the Camden city council requested the chairman of the housing authority to resign. (He has not done so.)

The Vice President's intervention, Mr. Speaker charged, would have a chilling effect on the conduct of this legal challenge and on similar cases in the future. Agnew replied that all he wanted to do was cool everyone down and discuss a settlement. But if the Vice President had really meant to effect a conciliation, he went about it in an unsuitably noisy and partisan way. He entered the dispute on the side of the Camden officials, at their request, and denounced the opposing case and its advocates. Camden officials may now harden their position and wait to see what the federal government will do.

For Fred Speaker this was the last in a series of discouraging experiences. A registered Republican and former Pennsylvania attorney general, Speaker came to Legal Services with excellent qualifications,

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though without prior poverty law experience. As he became involved in providing legal aid to the poor, he developed a deep commitment to the need for law reform, prison reform, and the integrity of the attorney-client relationship. Operating with inadequate funds and harassed by opponents of the program, he grew as frustrated with the administration's indifference to his problems as did Terry Lenzner before him. On February 11 Speaker resigned.

The Camden episode underscores the need for legislation to define the prerogatives of Legal Services and to place it outside political intrigue insofar as possible. The Nixon administration and some members of Congress have sought to discourage class actions against government officials. But the OEO lawyers, supported by the American Bar Association, the American Trial Lawyers Association, and the National Legal Aid and Defender Association, have sought to ensure for poverty lawyers the same freedom to defend clients that private lawyers have. The move to transfer the politically controversial Legal Services out of OEO to a quasi-public corporation has broad support. Disagreement has centered on the structure of its board of directors and on the restrictions of lawyers' activities (discussed in my May 29, 1971, *NR* article: "Advocates for the Poor: Legal Services, Inc.").

Last December, Congress approved and sent to the President a bill representing compromise on the board of directors. The original Mondale-Steiger bill, widely supported by lawyers and client groups, called for a 19-man board with five presidential appointees and the rest designated by national bar associations, the Chief Justice, and client and poverty law councils. This predominantly independent board was designed to shield the program from political pressures while maintaining accountability to the three branches of government as well as to the clients. The Nixon administration, on the other hand, wanted presidential appointment of all directors.

The resulting bill met Mr. Nixon half-way. It gave him the power to appoint all 17 corporate directors, but 11 of them would have to be selected from lists of nominees drawn up by the Judicial Conference, the Clients Advisory Council, the Project Attorneys Advisory Council, and the national bar associations. The use of nominee lists was an obvious way to break the deadlock. The restriction is not oppressive, since the President is free to reject any list and request a new one if he finds none of the nominees acceptable. Congress reasoned that poverty lawyers and client associations should be represented on the board 1) to keep the corporation responsive to the needs of the poor, 2) to guarantee that the directors would have had practical experience in the field, and 3) to make certain the directors would be immune to political pressure, whether from city hall or the White House.

The President vetoed this bill on December 9. He did not want any restrictions placed on his choice of directors for the Legal Services corporation.

The current OEO authorization bill, which passed the House in February (HR 12350) by a margin four times greater than the vetoed December bill, declined to further compromise the independence of the board of directors. The Senate is expected to support that stand.

Ridgeway M. Hall, Jr.

The Nixon Watch
Through the Window

This is how the Nixon presidency looked during the fortnight or so preceding April 5, as it was viewed through the murky window that more or less opens on it from the White House press room. The view that the reporters assigned to the White House get through that window is distorted and imperfect, a play of shadows on the wall behind which Mr. Nixon and his army of assistants do their work. But it's the view that they presumably want to project, or at any rate do project.

The chief keeper of the window, Press Secretary Ronald Ziegler, has been asked since early March how the President first learned that Harold Geneen, the president of the International Telephone and Telegraph Corp., had agreed that one of its subsidiaries, the Sheraton Corporation of America, would underwrite up to $400,000 of the expense of holding the Republican National Convention in San Diego next August. It is a pertinent question for several reasons. Mr. Nixon forced the convention upon San Diego, which didn't want it, so that he could commute to it from the nearby Western White House at San Clemente and accept his expected renomination for a second term in his home state. Sheraton, a hotel chain, has two hotels in San Diego and is building a third. Geneen told the Senate Judiciary Committee that his agreement to guarantee part of the convention cost was contingent upon a promise that Mr. Nixon would stay at the new hotel, and thereby attract valuable publicity for it, when he came to San Diego for renomination. It's all tied in with the ugly suggestion, denied by all hands and not proven to date, that the ITT-Sheraton guarantee was somehow connected with the Justice Department's later decision to settle a major antitrust case in ITT's favor. Geneen agreed to guarantee Sheraton's part of the cost on May 12. A report that he had done so was published in San Diego on July 3. Republican Congressman Bob Wilson of San Diego confirmed the report on or around August 5. Two

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Nixon assistants who might have been expected to know about it by then are Robert H. Finch, a former lieutenant governor of California, and Herbert Klein, a former San Diego editor. In May, at about the time Geneen was committing Sheraton to the guarantee, they visited San Diego and passed the word that Mr. Nixon wanted the convention to be held there. Klein and Finch said that they didn't recall just how and when they learned of the Sheraton guarantee. They were certain only that they had never reported it to Mr. Nixon or discussed any aspect of the difficult job of raising the necessary money with him. That left the ball with Ziegler (the reporters having failed to ask Mr. Nixon about it at his March 24 press conference). Ziegler's answers on two occasions were that he didn't know just when the President learned of the ITT-Sheraton guarantee, but he did know that it was from one of the daily news summaries that the staff prepares for Mr. Nixon. When was that—before or after the Senate Judiciary Committee began its inquiry into the whole affair? "At the time it came to be in the news," Ziegler answered. Patrick Buchanan, the assistant who supervises preparation of the news summary, found on page 26 of the one for November 30 a long paragraph conveying to the President (if he read it and Buchanan wasn't sure that he had) the essence of a story that had appeared the day before in the *Washington Evening Star*. It was a thorough job by Robert Walters, a *Star* investigative reporter, and Mr. Nixon should have realized after reading the barest summary of it that bad trouble for him was lurking in the ITT situation.

Whether he realized it and how he reacted if he did remain unknown, except that he visibly did nothing whatever to forestall the storm. Two little facts, the kind that illumine the shadows on the wall, did emerge. One of them is that the President's news summarizers usually don't digest reports in *The New York Times* and *The Washington Post* because "he reads those papers for himself." The other one is that some of the President's advisers are suggesting that he get around the embarrassment of putting up at the new Sheraton hotel in San Diego by letting it be known as "the Nixon hotel" without staying in it. He can hop from San Clemente to San Diego by helicopter, deliver his acceptance speech, return to his California home for the night, and if necessary repeat the shuttle when his choice for Vice President is nominated. The Nixon stamp can be affixed to the hotel by having some of his assistants lodge there and maybe making it the headquarters of his Committee to Re-elect the President.

The Committee to Re-elect the President figures frequently in the press room play. The reporters hear of it whenever they ask what the President calls "partisan political questions." Ziegler refers such questions to the committee, frankly identifying it for what it is—an extension of the Nixon White House. Its employes, totaling 125 at last count and growing in number by the day, are quartered a block from the White House, on Pennsylvania avenue, on two floors and pieces of several others in the building where the former Nixon law firm has its Washington offices. Former Attorney General John N. Mitchell, who is to be the Nixon campaign director, has rejoined the firm and has two offices on the fourth floor of the building, one for his law practice and one for his campaign duties. His wife, Martha, is a committee volunteer and has been allotted a nook on an upper floor. A reporter, noting that Mr. Nixon had answered a question about political contributions at his last press conference, asked Ziegler the other day why his policy and the President's policy on answering political questions seem to differ. "I didn't know it did," Ziegler said, and evaded the difficulty by saying the President had answered *that* question and he, the press secretary, wasn't going to answer it again or answer any others like it. The White House telephone operators gladly give inquirers the committee number (333-0920) but won't put outsiders' calls through to the committee offices.

A burning issue in the press room was whether the North Vietnamese offensive in South Vietnam, with the questions it raises about further American troop withdrawals and about the success of Nixon Vietnamization, had created a crisis at the White House. Reporter to Ziegler: "Do you notice any crisis atmosphere around here?" Ziegler to reporter: "I haven't noticed that around here, but I notice that some reporters have noticed that." A classic example of the answers White House reporters get was provided by Deputy Press Secretary Gerald Warren when he was asked whether the President's acknowledged "concern" about the situation had led to some decisions, and he replied: "The review [of the war situation] is under way; the President is reviewing it; his advisers are reviewing it; and we are awaiting the results of that review." Observing that most of the substantial comment and of what passed for news about the President's reaction to the war events was coming from the State Department rather than the White House, a reporter asked Ziegler, "Is that an attempt to keep the focus off the President at this time of non-crisis?" Ziegler answered in effect: don't be ridiculous, the State Department was the proper place for the answers to come from. It was perfectly natural, he maintained, for him to be consulting daily with Robert McCloskey, the department spokesman, who proved himself to be a cool and competent expounder of official views years before Ziegler arrived in Washington. Their common line, set at the White House, was that the North Vietnamese attack across the Demilitarized Zone was a "flagrant violation" of past accords and, in Ziegler's favorite term, a "blatant" offense against the known proprieties. The President

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has implied since the Vietnam war became his war that there is something uniquely sinful in North Vietnam's persistent attempts to win it, and that was the dominant thought that Mr. Nixon had his spokesmen try to encourage.

The press staff let reporters assume as late as March 30 that the President was going to visit Ft. Campbell in Kentucky during the first week of April to celebrate the withdrawal of the 101st Airborne Division from Vietnam. On April 3, it was said that the President never had decided to go to Ft. Campbell and wasn't going. Had he changed his mind because of the Vietnam situation? Not at all, the answer came; it was just "a matter of the President's scheduling."

John Osborne

The Paradox of Prison Reform—III

The Meaning of Attica

by Robert Martinson

"I have no habits, no ego, no name, no face. I feel no love, no tenderness, for anyone who does not think as I do."

George Jackson in *Soledad Brother.*

The dungeons of American penology were built mostly in the 19th century and have always been vulnerable to convict disturbances. The state with the most fearsome "pen" hoped to deter crime into its neighbors' streets and fields. From this amiable competition there resulted a "big house" in each state, fed by county jails and city lock-ups.

Probation and parole, now standard, began as privileges given to the "Square John" type of offender. Parole authorities increasingly used parole as a "testing ground," releasing more offenders than could succeed, with the expectation that agents would return to prison those who began to mess up. The proportion under community supervision increased (to the dismay of Mr. Hoover of the FBI), filling the prisons with the most hardened cons and only a small leaven of stable offenders. Once completed, this system (less than 100 years old!) has undergone almost no change.

Our early prisons were unashamedly brutal and the frontier beckoned inmates who could escape. In pre-bureaucratic America, escape meant something: one could change his name, start a new life, no questions asked. Every prison disturbance implied mass escape, and convict unrest was met with deadly fury. Today, mass escape has disappeared and practically all individual escapes are walk-aways by minimum security inmates, similar to parole absconding. Hopelessness plus ingenuity may still provoke an attempt to "hit the wall" or dig a tunnel or hide in a garbage truck, but it's rare.

Once escape was cut off, inmate disturbances turned inward. The prison riot was a struggle for reform of prison rules and conditions or a struggle for power within the inmate body for the meager privileges available. True, the riot usually spent itself in a short time and dissolved into anarchy as inmates settled old grudges or refused to fall in behind any leadership. Inmate riot was often nicely calculated to provoke interference by the humanitarian reformers. Sometimes it led to changes in paroling practices, better food, less punishment for breaking prison rules or fewer rules.

During the twenties and thirties, many American prisons were run by a corrupt inmate leadership who maintained order (for a price) while preaching the "inmate code." Treatment was believed to be aimed at putting a stop to this, and its attempts to do so were partially responsible for the riots of 1952-53. In the larger state systems, "bus therapy" aided administrators in beheading incipient revolts. Group counseling was sold to the old-school wardens—along with the new title of superintendent—as one means of maintaining order. The fearful reaction of guards to the "large group" diminished as they learned that such groups were useful in draining energies into verbal attack. In the San Quentin Adjustment Center in 1967, therapy groups led by young counselors were used

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Robert Martinson *is co-author of* The Effectiveness of Correctional Treatment.

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as a privilege to relieve monotony. The inmates dealt out unbelievable personal abuse, but I was told by the counselors that this was part of the job of "treating" these "problem cases."

The "dangerous myth" of treatment is now disintegrating. But the policy which this myth protects—the policy of the indeterminate sentence—has been successfully embodied in law, in the power of paroling authorities, in treatment specialties, in public opinion. The spokesmen for treatment favor the *extension* of the indeterminate sentence. Most hard-liners long ago accepted the idea, only adding mandatory minimum sentences in case paroling authorities became too lenient.

Until recently, the only motivation among inmates worth talking about was the desire to get out. They saw parole as a privilege, but they had to convince the harassed paroling authority to make the visible and politically sensitive decision to let them out. This naturally led to second-guessing "the board." In California, one formula—believed to be fool-proof by its inmate adherents—prescribed a short period of intense "messing up" on first entering prison followed by a mixture of one-half group therapy and one-half vocational training with a *gradual* reduction in prison misbehavior and a few carefully written letters to close kin.

Inmates have always detested the indeterminate sentence and have preferred fixed sentences and "good time" laws. But indeterminacy has a different meaning to the confined when real opportunities beckon than when parole appears to be a trap. (The main source of convict information about parole is from those who have been returned to prison after failing, as Jerome Skolnick has pointed out.) If escape is useless (where do you go? what do you do?), and parole is a "testing ground," offenders can come to see all of society as a web of indeterminacy. ("They will never get off your ass.")

The sentence, say, is one year to life. After years of confinement the parole authority fixes a date for release and a term of parole that can be extended up to the last moment on parole. The parolee commits an offense against the parole rules and is returned for technical violation "to finish term." The paroling authority, after a few more years, resets a release date and a new term on parole. The inmate messes-up in prison just prior to release, perhaps in fear of a new failure. He is remanded to the adjustment center for an indefinite period. After several weeks, he threatens the life of a correctional officer and is bused to the third floor of the Adjustment Center at Folsom as a "problem case." (We are talking about California where indeterminacy is the rule.) His mind may now begin to snap so he is moved to the second and then to the first floor. He babbles and annoys the guards and inmates with his incessant demands. They remove his clothes, glasses and belongings and place him in a "strip" cell at the rear of the first floor where the iron doors shut him off in darkness and quiet.

The federal courts have tried to set minimum physical conditions for these "quiet" cells. If the inmate smears the walls with excrement, this must be washed off; he must be observed by the guard every so often. And so forth. Courts cannot administer prisons. They can arrange for lawyers to be present at parole hearings, but how can they subject a decision-making process based on the myth of corrections to judicial scrutiny? The essence of the treatment position is that it requires *expert judgment* to make treatment decisions. Evidence that the inmate should be released from the adjustment center comes to the decision-maker through a variety of sources, including the correctional officers who are shut up daily with him and must listen to his babbling and his abuse, and must clean the excrement from his walls, put out the fires he sets or replace the toilets he smashes.

The California adjustment centers are the best example of a false position run riot. Inside every prison is a unit to hold those who "cannot manage the freedom of the yard." But the old maximum security unit was for punishment (say, 15 days) while the adjustment center uses the indeterminate sentence. In California this was the brainchild of Dr. Norman Fenton, a mild-mannered, kindly man who hated the "hole" and hoped to combine maximum security confinement with individual treatment. I found inmates who had spent almost four years in these "max-max" units. The new breed of militant black convict has made these places known throughout the world. An "end of the line" prison, like Attica, plays the role of adjustment center for a large system of prisons.

Attica reflected a growing disgust with what the inmates regard as the hypocritical fakery of treatment. The inmate body has long listened to convict leaders who denounced treatment as a grand racket set up to employ professionals; now they listen to the views of new-left writers who assure them that they are all "political prisoners." Perhaps they also notice that treatment spokesmen denounce "punishment," but advocate life on the installment plan, a terror described by Franz Kafka.

As the myth of treatment has been co-opted by correctional officials, it has ceased to grip anybody. Those closest to the offender—the correctional officers—tend to view it as a form of "brainwashing." It could be argued (and was) that if treatment didn't rehabilitate, at least it kept the lid on. And it did keep the lid on for almost two decades. Attica is a warning that it no longer can do so.

The *expressive mutiny* (as I think it might be called) is a new form of collective disturbance, not merely a temporary reflection of new-left influence among a group of politicized black convicts. It communicates the inmate's plight to the public so far as he under-

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stands it. The prison is used as an arena in which to stage dramatic renditions of inhumanity and rebellious gestures of inchoate despair and apocalypse.

Posh white radicals have romanticized this revolt of the criminal underclass and some have mounted activity to provoke "more and better Atticas," a position that even ex-inmate groups like the National Prisoners Alliance seem to be turning away from. This position finds no support among practitioners and active hostility among guards and their unions. Support for Attica-style revolts—as opposed to sympathy for the rank and file inmates—is found among groups not previously connected to prison reform and with no stake in corrections. This group includes poverty lawyers, radical intellectuals, upper-middle-class legal professionals, reporters, mass media specialists, and politicians dependent upon the inner-city black and Puerto Rican vote. It also includes members of revolutionary sects, academic guerrillas and a few students.

The activist group adopts the role of "advocate"; the legalistic end, represented by the newly politicized American Civil Liberties Union, takes out full-page ads and mounts campaigns for convict civil liberties and rights. This movement incorrectly interprets convict insurrection as a response to "racism" and "brutality." It displays contempt for reformers who temper sympathy for offenders with sympathy for their lower-middle-class and blue-collar victims.

This movement has no solution but it may be temporarily successful in creating an unstable working alliance between some intellectuals and some convict leaderships—an incipient *Camorra* that might prove useful in controlling and exploiting ghetto areas if such groups as NEGRO need a little muscle and if America should move further in a reactionary direction. Mr. William Kuntsler is the spokesman for the new alliance between the criminal underclass and the new-left currents. He has a flair for popular demagogy. He has attempted to forward the image of Attica as an "Alamo," and the inmate insurrection as an "Athenian democracy." When the inmate "revolutionaries" compare this heady talk to the hollow promises of correctional treatment one can predict the result: disaster. We will turn away from this alliance of posh radicalism and convict revolt—or be swept aside by the hard-liners. For millions of Americans see crime *not* simply as a "code word" for racism or riots or student hijinks.

This is the third of four articles.

Will Congress Get the Message from Wisconsin?

Taxes: Reform or Revolt?

by Tom Stanton

And what were *all* the presidential candidates finally talking about in the Wisconsin primary?—*taxes.* And why not? Last year over 1300 Americans with incomes over $50,000 paid no federal income taxes; Gulf Oil paid only 1.2 percent federal taxes on its net income of $990 million; US Steel netted $154 million and skipped 1971 federal income taxes altogether. The tax loopholes are so gaping that simply eliminating them could cut personal tax rates by 43 percent across the board, according to testimony of Joseph Pechman of Brookings in January before the Joint Economic Committee.

Last year Rep. Henry Reuss (D, Wis.) introduced a bill optimistically titled the "Tax Reform Act of 1971." It was buried by the Ways and Means Committee without even a hearing. Instead we were given the "Revenue Act of 1971," which cut federal tax revenues by $9 billion annually, over $7.5 billion of that going to corporations. These huge corporate tax cuts were "economically and socially unjustifiable," Congress was warned at the time by former presidential adviser Arthur Okun. The warning was ignored. Why? The key to the failure of reform lies in the concentration of power over tax laws in the hands of a few powerful men who are as immovable as the Washington Monument. First among them is Ways and Means Committee chairman Wilbur Mills (D, Ark.). As of March 1 of this year, members had introduced some 1140 tax bills for consideration. But life-and-death power over them rests with the committee's 25 members, and if a majority doesn't like a bill, it's dead—without explanation or excuse. By the end of this year, most of the 1140 will

Tom Stanton *is a Washington, DC attorney and director of the Tax Reform Research Group.*

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be interred in the archives.

In theory, a congressman can escape the stranglehold of Ways and Means; he can introduce a tax amendment during floor debate. But few Democrats choose to challenge the committee or its chairman, and for a very important reason. The Democrats on Ways and Means have a power separate from their legislative function: they also serve as the Democratic Committee on Committees, in which role they control committee assignments for all House Democrats, in effect blunting or accelerating a congressman's career.

But even those who would dare offer floor amendments, in practice may not do so. For the House considers tax bills from Ways and Means under a so-called "closed rule," which means the members must take it or leave it: no amendments allowed.

For years every challenge to the closed rule on a tax bill has failed. When hard pressed, Chairman Mills has himself changed the committee bill, rather than allowing a floor amendment which could expose the entire measure to probing and possibly to embarrassing debate. This means that most congressmen are cut almost entirely out of tax decisions. The 1971 Revenue Act is a good example. It sheared corporate taxes by more than the combined 1972 budget amounts for the Environmental Protection Agency, HUD, the Department of State, and the whole federal judicial system! Yet the House debated the measure for only an hour and thirty minutes. The next day Mills brought the bill to a vote when only 30 congressmen were present, and then didn't have a rollcall vote.

"In my line of work, we let some of the biggest ones go."

The Senate has no closed rule, and the quality of floor debate on tax bills is accordingly higher. But in the Senate, reform hits another snag: the Senate Finance Committee. Democratic Senators Hartke, Fulbright, Ribicoff and Harris are absent from many committee tax hearings; the Republicans are more conscientious. They include Wallace Bennett (Utah), former president of the National Association of Manufacturers; Jack Miller (Iowa), who almost singlehandedly punched a $100-million hole into the already porous minimum tax on the wealthy; pro-business Paul Fannin (Arizona); and the oil spokesman Cliff Hansen (Wyoming). A labor official has said that, "[Michigan Senator Robert] Griffin is the first Republican to get on that committee in the memory of man who hasn't been an absolute troglodyte."

But at least senators have the power to revise tax bills on the floor. Partly for this reason, many amendments to the Revenue Act of 1971 were passed or defeated by narrow margins, and floor debate lasted for several days. Unfortunately, floor debate and vote are not the end of the process. The Senate and House resolve their differences by going into "conference," which is where the axes are further sharpened. The conferees on a tax bill are the five senior members of the Senate Finance Committee led by Chairman Long, and the seven senior members of Ways and Means led by Mr. Mills. These 12 powerful people are supposed to represent their respective chambers; more often than not many of them represent their personal views. Take Senator Bennett. Having lost a fight to block a reform amendment to the 1971 Revenue Bill, he vowed he would oppose it in conference. The surprised sponsor of the amendment remarked that Senate conferees were supposed to defend the Senate version of a bill, not fight it, but Bennett was adamant. (As it happened, his ulcer flared up and he couldn't attend conference; the small amendment survived, although in weakened form.) Wilbur Mills described in colorful terms how the Senate's amendments were killed. Calling them "assorted ornaments and tinsel hung by jolly elves on the Senate floor," he explained: "[W]e conferees are engaged in the unusual task of detrimming and taking down a Christmas tree before Christmas . . . [I]t is a somber and sad chore and not nearly as much fun as the ceremonial decoration of the tree in the Senate last month." But of course Mills did not take away the $7.5 billion gift to corporations.

Mills could be sure that the Senate would not reject the stripped-down version of its bill. The conference report, like Ways and Means bills in the House, is voted under a closed rule in both chambers: no amendments allowed. A vote against the final bill would negate weeks or months of work, and few members of Congress would go that far. So, again the closed rule

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takes its toll. Normally, there's little or no debate on the conference bill.

A look at the tax policy decision-makers in Congress and the Executive reveals some interesting associations. Treasury Secretary John Connally was formerly a tax lobbyist for the "hobby farm" livestock industry, defending the loophole Governor Reagan has used to avoid California income taxes for two years. Russell Long has told a reporter that he gets more money from oil investments than from his salary as a senator. Wilbur Mills made the front pages last June when an alert journalist spotted him getting off a private plane lent to him by Sears, Roebuck. Some Mills-for-President supporters in New Hampshire made news recently, having come from Washington to help Mills in that primary. The group included high-level tax lobbyists for interests like oil and banking. ("Mr. Mills is a personal friend of mine, a man I've known for 12 years . . . and there isn't anything I wouldn't do for him," said one of them, a tariff lobbyist for the government of Japan.)

It pays off for corporations and wealthy taxpayers (or nontaxpayers—depending on how many loopholes they can use) to keep close to these men of power. Once or twice each year, on "Member's Day," the 24 gentlemen of the Ways and Means (plus one lady, Martha Griffiths of Michigan) seat themselves around a large green felt-covered table, close the doors, and pass around tax bills that often are specially-written bonanzas for favored constituents. Each member is given a chance to offer a bill for consideration. After it is accepted (possibly in modified form following staff comment), the next member presents his bill—and so on around the table until everyone is satisfied. Depending on the appetites of the members, the process may stop after one round, but may go on for two or three. Sometimes members use the occasion to correct minor inequities in the past laws, or to "deliver" favors to other congressmen for reciprocal favors at a politically opportune time.

The committee held its most recent "Members" session last October, when the log rolled twice around the table. The 41 bills approved included such treats as one sponsored by Mills to cut taxes on banks by $70 million; member Burke's (D, Mass.) slice of cigar taxes by tens of millions of dollars; and a bill by Herman Schneebeli—soon to become ranking Republican on the committee—to help the Kellogg cereal and Pew oil families keep control over funds in their tax-free family foundations. Members of the Pew family have been generous contributors to Republican campaigns, giving more than $142,000 to national GOP organizations in 1968.

The complexity of tax issues helps shield official mischief from view. Take the Revenue Act of 1971 which raised the personal exemption to $750. Treasury Department General Counsel Samuel Pierce touted this as "of far greater benefit to the low or middle income person than it is to the rich individual." The opposite is true. The personal exemption benefits a taxpayer according to his rate bracket. A $50 increase in personal exemption is worth $35 to the high-income person in the 70 percent bracket, but returns only $7 to someone in the 14 percent bracket. A flat $25 "credit" or refund to each taxpayer would have given low and middle income taxpayers as much as the wealthy—and it wouldn't have cost the government any more.

The 1969 Tax Reform Act was the last serious attempt at reform. The impetus for that bill came largely from widespread grumbling about the inequities of our taxes, and from congressional concern that this dissatisfaction would grow into a "Taxpayers' Revolt." Randolph Thrower, former commissioner of Internal Revenue told Congress: "In view of declining enforcement, a well-directed challenge to federal taxes could prove costly and destructive to our entire tax system. . . ." Collecting taxes from an unwilling public would be prohibitively expensive. But the fear of a tax revolt is an imprecise tool of policy: the 1969 act was really more tax relief than tax reform. Government revenues were cut by billions of dollars, but new complexities were introduced that included a cosmetic "minimum tax"—itself riddled with so many loopholes that more than 3000 people who earned in excess of $30,000 in 1970 paid no taxes. Another section of the '69 act reduced the oil depletion allowance from 27.5 percent to 22 percent—no giant step. Gulf Oil Company's tax liability rose from .43 percent in 1969 to 1.2 percent in 1970, on a net income of over $990 million each year.

So here we are. A Harris Poll last year showed that 69 percent of the public sympathized with a taxpayer revolt—up from 43 percent two years earlier. This February, a group led by Rep. Wright Patman (D, Texas) and Less Aspin (D, Wis.) successfully knocked out a series of members bills. Calling it "unfair" to force members to vote on a measure without the information that would be gathered in a public hearing, Patman charged that many of the bills were "raids on the Treasury," which Chairman Mills was asking Congress to approve "without any real knowledge."

Mills is not accustomed to such disobedience. Red-faced, he pushed for passage of four of the least offensive bills, but he had to withdraw the others under pressure—special gifts to banks, cable TV stations, olive importers, retread tire manufacturers, shrimp boat owners, and a single anonymous importer of used airplanes. More congressmen seem ready to join the battle than in the past. Fifty-nine representatives are co-sponsoring a tax reform bill introduced by Rep. Reuss. The people and the tax experts have been long in finding their common ground. Their next step is to enlist, or unseat, members of Congress. For if the present system does not yield to a fairer one, Congress may really *have* a tax revolt on its hands—one that no amount of law-and-order sloganeering can stop.

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Stanley Kauffmann on films

The Sorrow and the Pity

(Cinema V)

Last year, a four-and-a-half-hour documentary from Argentina, *The Hour of the Furnaces*, a fine work. This year a four-and-a-half-hour documentary from France, *The Sorrow and the Pity*, another fine work. *Furnaces* is revolutionary propaganda, *Sorrow* is historical inquiry. The first film looks at the past to make people behave differently in future. The second one looks at the past and, rather chillingly, leaves the future up to us.

The subject is the German occupation of France, the only occupied country in the Second War that collaborated with Germany. The director, Marcel Ophuls (son of the director of *Lola Montes*), has not tried to explain France's behavior; he has put a great deal of varied evidence in front of us, while a lot of the people involved are still around to talk of it, and has juxtaposed it with newsclips from the past. A literary critic, intending to praise this picture, called it "a fascinating hodgepodge." I've rarely read a less accurate description of anything. At the furthest remove from a hodgepodge, this film is an extraordinarily well-wrought work, which makes part of its point through its being.

It begins with a wedding in Germany in 1969. The father of the bride, interviewed at the banquet table, surrounded by his wife and the young couple, is a former *Wehrmacht* captain who was stationed in Clermont-Ferrand, near Vichy, during the Occupation. His comments about the present and the past take us to Clermont-Ferrand, on which city the whole film is based. A series of interviews is threaded through the film; earlier film material about the people interviewed, or the matters they describe, is interwoven. The subjects are residents of the city and vicinity; other people whose comments bear on what happened there; and well-known people whose careers were involved with all of Europe.

Among the well-known people are Albert Speer, Walter Warlimont of the *Wehrmacht* Supreme Command, Lord Avon (Anthony Eden), General Sir Edward Spears, Jacques Duclos, the French Communist, and thank heaven, Pierre Mendès-France, surely one of the few great men in politics in our time, shamefully wasted, who predictably reveals himself as thoughtful, witty, modest, resolute, and sad.

Lesser-known figures are no less fascinating: an aristocratic French rightist who fought with the forgotten Charlemagne Division of the *Waffen SS* on the Russian front; two stout old farmer-brothers who were in the Resistance; a pharmacist; an English musical-comedy performer who had been a secret agent; a former *Wehrmacht* soldier who had been a prisoner of the *maquis* in 1944; a pair of old French schoolmasters. Others, many others.

The film is in two parts, one about the fall of France, the other about events under the Germans until the Liberation. Ophuls has worked for balance in his materials, believing—quite rightly—that the best balance he could make would be the best case he could make. Certain matters are skimped, the role of the Church, for instance; otherwise, Ophuls shows us that Anglophobia and anti-Semitism are sometimes latent but always chronic in France, that venality exists there as everywhere, and so does heroism; but that for all the seeming explanations, the reason for difference between France and, say, Denmark is like quicksilver in the cracks. Honor the heroes, Ophuls seems to say, we have to cling to the fact that they existed; but be careful of feeling superior to the others.

Some of the newsclips Ophuls has found are absorbing: Hitler touring the almost-deserted early morning streets of Paris; Hitler being (if you can believe it) almost attractive in a laughing conversation in his railroad car. And besides the pre-ordained contrasts between past and present, Ophuls has worked out some nice harmonies in the present: for instance, Mendès-France's account of his trial by the Vichy government and his lawyer's comments on the trial.

One talent that is often skimped in discussing this kind of film is the ability to interview. I assume that lots of subjects were cut out because they didn't respond well, but lots of material is cut from any picture. Ophuls and André Harris, who worked with him, asked the kinds of questions that drew genuine answers, not interviewese, from much-interviewed people: as when Spears speaks of seeing French sailors in London with English girls on the day that the British fleet was to bombard the French fleet at Mers-el-Kebir.

Another reason for the interviews' success is preparation. When the smarmy Comte de Chambrun, professional apologist for his father-in-law Pierre Laval, cites statistics in support of Vichy's humanitarianism, Ophuls interrupts to say that he knows those statistics, and knows that they are partial and misleading. Then he holds

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Films Worth Seeing

Cabaret. A mordant musical based somewhat distantly on Isherwood's *Goodbye to Berlin.* Michael York splendidly shy as the hero, Liza Minnelli good but still Judy-Garlanded as Sally Bowles. Bob Fosse directed with incessant glitter. The intent was to be touching and politically sharp. Result: bric-a-Brecht.

The French Connection. Sappy but zappy. A thorough thriller, about drugs in Marseilles and Brooklyn. Gene Hackman heads a heads-up cast.

Gumshoe. A breezy but bored Liverpool night-club comic opts for the Bogart life and lingo. Albert Finney keeps the fantasy funny.

The Hospital. George C. Scott blasts off in a wobbly but often bright Paddy Chayefsky script about a middle-aged New York doctor and his young doxy.

The Last Picture Show. In Texas, 1951, a youth comes of age. Familiar? Quite. But much of it well acted and decently directed.

Tokyo Story. A gentle masterpiece by Yasujiro Ozu, about parents and children and the passage of one's life. If any of these subjects happens to interest you, insist that a local manager book it—from New Yorker Films.

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Kenneth Evett on art

The New Realism

The roller-coaster dips and turns of American art have finally brought us around again to familiar ground. We are back to realism. Whether this is just another diverting change of fashion, or whether it marks a significant event, like the demise of the Academy of the New, or is evidence of a deep cultural weariness with abstractions in general, remains to be seen. At any rate, a changing of the vanguard is with us, and while we are waiting for the stragglers from various abandoned outposts to dump their picks and shovels, laser beams, moire patterns, graph paper, masking tape, and other passé paraphernalia, we have time to consider the nature and possibilities of this new phenomenon.

The subject is inseparably linked with the use of the camera. In our culture, where machine-produced patterns and images are pervasive, the traditional visual arts are bound to be affected, one way or another, by the omnipresent picture-making machines. In current practice, artists who derive their imagery from the external world may either use photography as a primary source, combine direct observation with photographic references, or renounce the camera altogether and depend on direct observation, knowledge, and visual memory for the creation of images. Of these processes, the first is chic, the second conventional, and the third radical. Which of them prevails will determine the character and quality of the new realist painting.

The camera dominates the school of "Sharp-Focus Realism" recently seen at a Sidney Janis exhibition in New York. Either photographic processes are directly employed, photographs are copied, or artists function as humanoid cameras. In this style, the glittering and shiny images of our chrome civilization are rendered with merciless accuracy. The banalities of advertising, picture post cards, newspaper images, and other artifacts of pop culture are reproduced with cool assurance. These artists use their human skills to ape the camera and even attempt to surpass its slick perfection and impartiality. That anyone would want to do such a thing and then laboriously do it, does provoke some kind of shock. As an impudent nihilist gesture of self-abasement, this mechanical art does make a comment on our dehumanized condition, and although that strange combination of emotional emptiness and deadly competence may have impact as a titillating absurdity, to my eye, most sharp-focus realism seems little more than an obsessive tour de force. However, it will undoubtedly be the next fad of the New York novelty market and will probably be solemnly discussed in Instant Art History books.

Whereas sharp-focus realists baldly proclaim their alliance with the camera, those artists who combine direct observation with photographic assistance, or those whose way of seeing has been unconsciously conditioned by the camera, are not so simple. Inter-reaction between photographic and traditional image-making processes has been going on since the 19th century. Artists as disparate as Degas and Eakins have recognized the possibilities of photography. Degas was attracted by the perversity of camera angles and employed them in the creation of daring new pictorial structures. Eakins used photographs for practical information and thereby narrowed his vision of color and form. Realists like Hopper and Wyeth both reveal the weak draftsmanship that goes with camera-conditioned vision, though they redeem that failing by their subtle control of abstract elements and their evocations of mood and light.

Camera involvement in realism is ambiguous, to say the least. One popular realist hero of the moment, Philip Pearlstein, works in a slavishly photographic manner, with mindless delineation of cast shadows and painstaking rendition of misunderstood surface lumps and bumps. He relies heavily on cameralike cropping, yet denounces the use of photographs, and even has the presumption to suggest that Ingres, whose work is intensely selective, learned, and abstract (light years removed from Pearlstein), depended on the camera. A superior contemporary painter like Pederson-Krag generally works directly from nature, but occasionally uses photographs, which she hides when visitors appear. This minor transgression in no way interferes with the serene and mysterious power of her painting. Use or nonuse of the camera is evidently not a clear-cut esthetic or moral issue. Yet, in general, I sense that those artists who employ photographs or camera-oriented vision (as distinct from photographers who use cameras) tend to be limited by the machine's limits. Their work is frequently compromised by an obligation to produce paintings that can match the camera's vulgar verisimilitude.

Finally, there are those realist painters, young and old, who depend entirely on their human vision to discover the rhythms of the external world. They contemplate the creatures, places, and things of the earthly domain as they exist in space and light, observe the relationships that occur, and record their response by a direct physical process of mark-making. They are the latter-day American offspring of those painters, from Manet to Morandi, who have paid ardent attention to the forms of nature. They also care more about an artist's work and what it reveals of his methods than they care about his assigned role in art history. For them, Cezanne is significant because he devoted a lifetime to recording an intense visual exploration of his immediate surroundings, not because he incidentally discovered new ways of seeing that led to cubism. Van Gogh appeals to them because he was passionately engaged in a process of revealing the movement, structure, color and light of the visual world, not because the emotional aspect of his work was later linked to the gross neurotic effusions of expressionism.

For the artists who have returned to the external world for their imagery, the accepted doctrines of Clement Greenberg's chauvinist abstract academy are simply ignored. They are not committed to the impenetrable sacred flatness of the picture plane. They don't care about inventing private iconography or finding clever new ways to tickle overblown areas of canvas into acceptable decorative form. They are tired of the conventional ambiguities of Modern Art. They are not bound to a trivial artistic tradition defined by the likes of Jackson Pollack on one hand, and Jack Bush on the other. They are engaged in the expression of immediate experiences of the big world, rather than the creation of egocentric abstractions. These artists use the process of direct observation and creative action as a mode of existence, as a means of establishing a link with the world. For them the process is more important than the product. Most

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of them are completely indifferent to the novelty-seeking, marketing ploys of the New York art game. Some of them live like mystics or hermits. Learning to see is their lifetime vocation. For them, the age-old acts of painting and drawing are only means for discovering the shape and mystery of the forms about them.

This return to a primal condition of direct experience and action seems to me the most vital aspect of the new realism. It is one mode of contemporary creative activity where purely human responses and gestures are employed. Insofar as it engages both artists and viewers in a renewed awareness of this changing vulnerable world, it has both esthetic and educational promise. Out of it may come a body of original work.

No great prophetic vision is needed to perceive that abstract painting is reaching a dead end. Those monotonous nonobjective paintings that numerically dominated the recent Whitney annual in New York or Philip Johnson's latest sterile donations to the Museum of Modern Art in that city are just samples of a generally exhausted style. By now, the prevailing conventions of post-war abstract painting have become academic, restrictive, and intolerably boring. The move toward realism is not only an act of rebellion against those limits, it is also a return to an old American painting tradition and a new approach to the objective world.

Krötekusser

The Case of the Midwife Toad by Arthur Koestler

(Random House; $5.95)

The title of Arthur Koestler's unexpectedly enthralling book is no mere eye-catching trick, for the central figure, if not the protagonist, is improbably exactly that—a toad, the midwife toad (*Alytes obstetricans*), a tiny creature of eccentric habits that was the focus of a major scientific controversy and scandal in the years following World War I, and the possible repository of talents of large, startling implications for genetics. If Koestler is right—and his telling, richly documented, handsomely deployed argument virtually compels assent (the assent at least of one skeptical layman) and in some particulars seems altogether incontrovertible—then the murky, persistent dispute between neo-Darwinism and neo-Lamarckism remains a decidedly open issue. What can be made of Koestler's case finally will have to be left to the experimental scientists, but if they remain laggard the argument goes by default, and thus can only confound our confusion.

This is the brief they will have to answer. Dr. Paul Kammerer, a brilliant and distinguished Austrian experimental biologist working in a world-famous Viennese institute, was convinced beyond doubt that he had demonstrated through a sufficiency of experiments with a variety of species the validity of Lamarck's hypothesis that the principal means of progressive evolution was not Darwin's random mutations—haphazard variations produced by blind chance—but the inheritance of acquired characteristics. In Kammerer's view the most cogent evidence was provided by his work with spotted salamanders and the primitive Ascidian sea-squirt, *Ciona intestinalis;* the latter, he thought, was his "crucial experiment"; but largely ignoring these, his opponents in the Darwinian-Mendelian establishment singled out for attack his work with a midwife toad and in particular its nuptial pads, insisting early in the extended controversy that the pads didn't exist and later that they had been faked. (Read on.) In the end they were in fact faked in some still mysterious way, though not, all the weight of the circumstantial evidence suggests, by Kammerer, but by some enemy; though the late forgery in no way invalidates the astonishing, seemingly established achievement. In any case, the celebrated pads were the ground of dispute chosen by the opposition, not by Kammerer, who regarded them as interesting though supplementary evidence. Soon after the clumsy (worse: bungling, amateurish) forgery—an injection of India ink—was exposed by an American scientist in the columns of that most prestigious of scientific journals, *Nature*, Kammerer, perplexed and dejected, and feeling that he had brought disgrace upon his institute, committed suicide, willing his brain to his "worthy academic colleagues" in the hope that they would there discover "a trace of the qualities they found absent from the manifestations of my mental activities while I was alive."

The cause célèbre is a small, grotesque, ungainly but witty creature; and one must let Koestler describe his amorous ways in some detail: "While most other toads, and frogs, mate in water, *Alytes* mates on land. During the mating procedure in water, the male toad clasps the female round the waist and keeps her in his grasp for a considerable time—sometimes for weeks—until she spawns her eggs, which he then fertilizes with his sperm. To get a firm grip on the female's slippery body in the water, the male toad develops in the mating season swellings on palms and fingers of a blackish colour, from which small horny spines protrude: these are the famous nuptial pads. The female emits a multitude of eggs attached to long strings of jelly, and the male, after having fertilized them, winds these beads of eggs round his hind-legs and carries them with him until the young hatch—hence the name midwife toad." Kammerer claimed that after being induced to copulate in water, as other toads do, for several generations, *Alytes* eventually developed nuptial pads as an acquired hereditary feature.

Yet dramatic as these results were, Kammerer, who was nothing if not a principled, fastidious scientist, knew they were vulnerable to alternative interpretation: since the species had descended in the remote past from padded water-mating toads, the reappearance of the pads could be an atavism—"not so much an acquisition of a new feature as the reappearance of an old one." He therefore went out of his way to stress this in a 1923 lecture-demonstration before the Cambridge Natural History So-

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ciety, an occasion that was to prove the beginning of his undoing. Baffled by the general neglect of his work with *Salamandra* (by which he hoped to achieve nothing less than "a reconciliation of Lamarckism and Mendelism") and with *Ciona* (which he regarded as his consummate achievement) he acknowledged the possibility of the "atavism objection" to *Alytes*, remarking "it is not very clear to me why just this experiment is so often looked upon as an *experimentum crusis*" and went on explicitly to say: "In my opinion it is by no means a conclusive proof of the inheritance of acquired characters."

Kammerer's opinion notwithstanding, his principal opponent, detractor and nemesis, the great Darwinian evolutionist Professor William Bateson, disagreed. Bateson had started his career as a Lamarckian; had made an arduous eighteen-month long expedition to Central Asia and the Siberian steppe in the hope of finding evidence for the inheritance of acquired characteristics and had met with failure; had repudiated the scientific sins of his wayward youth, embraced Darwinism and suffered, in the closing years of the century, a profound crisis of belief. For him, as for others of his persuasion, Darwinism had seemed to run into a dead-end; and it was from this rut that Mendel's landmark work, rediscovered (in effect discovered) in an obscure journal more than three decades after its publication, came as salvation and renewal.

Quite apart from questions of science, Bateson responded with the passion of a zealot and ideologue. Bateson's son, the anthropologist Gregory Bateson, remarked in a letter to Koestler that his father, many of whose colleagues "hated his guts," was driven table-banging furious at the mere mention of Lamarckism, and though the elder Bateson "always knew there was something very wrong with orthodox Darwinian theory," at the same time he regarded "Lamarckism as a tabooed pot of jam to which he was not allowed to reach." When the blinding light of Mendel struck, classical Darwinism became "neo-Darwinism"; and as is the way with the newly enlightened, Bateson became a heresy-hunter and guardian of the temple. Darwin himself had been so shaken in 1867 by a critical review of *The Origin of Species* (in which the critic demonstrated, "by an astonishingly simple logical deduction," that no new species could ever arise from chance variations by the accepted mechanism of inheritance) that he saw no other way out than to add a new chapter to the sixth edition of his great work "resuscitating the inheritance of acquired characters." Bateson, the holiest convert, began his purge with the errant Founder, listing on the fly-sheet of his copy of the sixth edition, which his son owns, "the pages on which Darwin slipped into Lamarckian heresy." (In one of the great ironies of this irony-ridden drama, in 1936, years after the play had closed and the players were dead, it was discovered that Mendel's statistics had been faked—probably by his assistants—made to conform much more closely to pure theory than disorderly life should yield.)

Bateson was not content simply to deny the existence of the nuptial pads; he denied the validity in general of Kammerer's breeding experiments; and though he secretively never published his own experiments with *Alytes* (and *Salamandra*), it is known that he could not induce breeding at all. Similarly, his main ally, E. G. Boulanger, tried and failed; as did others. As early as 1914, Kammerer had lamented the inability of most biologists to breed even a second generation, let alone the necessary number of generations over a span of a decade or more under extremely difficult and delicate experimental conditions "fraught with the danger of extinction of the line before the results show." By then, Kammerer had been publishing his results in respected journals, in rapid succession, for more than a decade; biologists the world over had responded with intense interest; and still no one had been able to recapitulate his experiments. Nor has anyone to this day.

There is a mystery here. Time, patience, precision, delicacy—all these are factors; but they are not sufficient to account for this extraordinary state of affairs. Bateson insisted on regarding the nuptial pads as the *experimentum crucis*, the "most astonishing" of Kammerer's experiments, the "critical observation," which would "go far," if it could be substantiated, "to proving Kammerer's case." With so much at stake, one would have thought battalions of experimental biologists would have dropped whatever they were doing in favor of *Alytes* and his incipient pads. But that is not to reckon with the coercive powers of orthodoxy, the dead weight of prevailing opinion, or the dimmer recesses of the academic mind. Bateson, who coined the very word "genetics," was an overpowering figure with a large vested interest to defend; neo-Darwinism had all but swept the field and become established doctrine; the Lamarckians had been virtually routed: in these circumstances, who was going to jeopardize a promising career by devoting a critical decade or more, perhaps much more, of his life and risk making a fool of himself where others had allegedly tried and failed. No professorships lay in that direction; no institutes and foundations stood ready to support so quixotic an undertaking.

Besides, brilliant though he admittedly was, there had always been something of the sport about Kammerer—"very high-strung and decadent," one of his opponents had said in the course of *praising* him. Early on, the Viennese scientific establishment (another branch of the same establishment Freud was plagued by) never quite trusted him. Kammerer was not one of their own: he had begun, not as a scientist, but as a musician; he was a composer whose work was actually performed in public; his amorous life was most irregular, at times notorious. He was a tender lover not only of women but of his little toads and lizards; he had named his daughter Lacerta after *Lacertidae*, a favorite genus of pretty lizard (Bateson named his son after Gregor Mendel); once he had been seen to pick up a toad *(Kröte)* in a garden and kiss its head, and was thereafter called by the witness, *der Krötenküsser*. In the eyes of the academic clerisy he had committed the deadly sin of scoring huge successes as a popular lecturer and writer. As a socialist and friend of the Bolshevik Revolution, his politics were a disaster. He was simply not our sort. (One likes to think that *Alytes* would do for him what it would do for no one else; but this is a mere fancy, and risibly unscientific.)

In any event, when Kammerer appeared for the decisive encounter in Cambridge in 1923 before a generally friendly audience, Bateson for obscure reasons, did not attend; though when following his great success at Cambridge with its attendant press publicity Kammerer repeated the lecture before the Linnean Society of London, Bateson was compelled to attend. In the ensuing discussion, Bateson dissented from several conclusions; Kammerer dismissed the criticisms as "irrelevant"; there were no fireworks; and later Bateson apologized to both Kammerer and the latter's principal English ally, E. W. MacBride, professor of zoology at the Imperial College of Science, London, for the seeming rudeness of his previous attacks, going

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so far as to assure the latter that he "completely withdrew his charges of bad faith on the part of Dr. Kammerer, and accepted his published results as genuine," though he continued of course "to differ from the deductions which Dr. Kammerer drew from them."

At this point matters grow wondrous strange, for a mere few days after Kammerer had left England, Bateson resumed his venomous attacks, again hinting heavily at fraud. Bateson's position was stronger than it would presumably have been before the war. The long wartime neglect of Kammerer's laboratory had decimated his collections, so that by 1923 his once thriving colony had been reduced to a single specimen of a midwife toad preserved in alcohol, showing the nuptial pads on its right fore-limb, the other one having been excised and used for the preparation of sections mounted for demonstration on microscopic slides. His laboratory in ruins, the institute (as well as its staff, Kammerer included) impoverished by the ruinous post-war inflation, forced into popular lecturing and writing, and at 42 without hope that he could resume the long exhausting work, Kammerer concluded his Cambridge lecture on a pathetic note, pleading that English scientists "test what had already been achieved, and . . . bring to a satisfactory conclusion what has been begun." There was no lack of witnesses when his collections had been intact, foremost among them Professor Hans Leo Przibram, the founder of his institute, and by all accounts a saint of science and a man of absolute integrity. Here, what had been sinister becomes grotesque, macabre. Although Bateson had at the Linnean meeting a dissecting lens and unlimited time and opportunity thoroughly to examine the specimen, he did not do so. He knew that Kammerer was eager to remove the specimen from the jar in order for him to make the examination "without obscuration by glass or background—from all sides under the lens," as he repeatedly had done for other scientists; but Bateson did not avail himself of the opportunity! What possible reading can one give this than that he did not *wish* to see, as Kammerer charged. Yet now, with the last battered *Alytes* returned to Vienna, Bateson was suddenly seized with a "strong curiosity to see this *Alytes* again"—and with sheer affrontery demanded that Kammerer return it to England, offering to cover expenses in the amount of 25 pounds. Kammerer replied that, though he would not veto the institute's directorate if they wished to do so, he was opposed to exposing *Alytes* "to the dangers of a second journey." Przibram, noting that he had allowed the first journey mainly to satisfy Bateson and lamenting his failure to make the most of it when he had had the chance, graciously invited the Englishman to come to Vienna for that purpose. Bateson's reply is a document to be cherished in the annals of rage: he regretted that his "not unfair offer" of 25 pounds had been declined, and added that if he did not "understand that the obstacle is not financial," he would gladly double his offer.

When the India-ink forgery was discovered three years later, Kammerer was already a broken man. It seems certain to Koestler (and for what it is worth, I am convinced) that Kammerer was blameless. Przibram said in private that he knew the identity of the culprit, though with Kammerer dead, the institute shattered and his own life in tragic disarray, he never divulged his knowledge. Since all this is, as Koestler accurately calls it, a "thriller with a lurid end," it should be said that the malefactor may well have been a kind of mad scientist who murderously hated Kammerer and, in his absence, had access to his collections.

In the history of science Paul Kammerer is now a nonperson: there is no biography; and when he is mentioned at all in the schoolbooks, it is as a passing reference, or a footnote, and almost invariably in connection with the scandalous last years of his life. All the questions remain, and now that Koestler has revived them with inescapable cogency they must be answered. For all I know they can be dismissed authoritatively but to such a challenge as this the authorities have no serious alternative but to respond in kind. At this stage, the weight of the evidence lies with Koestler, and with Kammerer. Yet still further questions remain. That no pusillanimous academic careerist should have attempted to repeat Kammerer's work with *Ciona* and *Salamandra* as well as *Alytes* is, however lamentable, understandable; but it is not so readily understandable why none of the sympathetic young scientists at Cambridge and London—some of the Lamarckian MacBride's students, for example—should not have done so. Still less is it possible to imagine why such work should not have been attempted by Soviet scientists, especially in one period of Lysenko's hegemony; or by the scientists of other Lamarckian nations. (Shortly before his suicide Kammerer had been invited to create an institute for experimental biology in Moscow and occupy its chair of genetics under the auspices of Pavlov's institute, and at his death had already begun preparations to do so.) Kammerer was a hero in the Soviet Union, even the subject of a forgotten film, written by Lunacharsky himself, in which the model hero is most foully traduced by a fiendish conspiracy of sniveling ecclesiastic and secular ghouls.

Certainly Koestler's masterly, learned and elegant brief must restore Kammerer to some measure of esteem in the history of genetics; at the very least it will remove the tarnish that obscures his name and correct the numerous simple errors of fact that reputable scientists have been content to record in the name of truth, each recapitulating and embellishing the mistakes of his predecessors without bothering to consult, out of routine scruple and ordinary creaturely curiosity, the readily available literature. There is, moreover, the embarrassing possibility that some young scientist—some ironist or comedian of science with a private income, deviant political opinions and a taste for creating consternation and alarm in the orthodoxy—may one day validate beyond dispute Kammerer's methods and results. He will require, in addition to Kammerer's immense virtuosity and flair, something of Kammerer's love of women, music, ballet, literature, art, toads and lizards; he will need to be not only a greatly gifted experimental biologist but the tenderest *Krötekösser*, so that *Alytes*, recognizing the lover's touch and kiss and remembering somewhere in its chromosomes those marvelous performances of its venerable Viennese ancestors, will do for him, ecstatically and repeatedly, what it once did for Paul Kammerer and steadfastly refused to do for William Bateson.

Saul Maloff

NOTES ON CONTRIBUTORS

KENNETH EVETT *teaches in the college of architecture, art and planning at Cornell University.* SAUL MALOFF *is the author of the novel* Happy Families. ROBERT MCCLINTOCK'S *book,* Man and His Circumstances: Ortega as Educator *(Teachers College Press), has recently been published.*

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With the New Left in Economics

Radical Political Economy: Capitalism and Socialism from a Marxist-Humanist Perspective by Howard Sherman

(Basic Books; $12.50)

The Life of G. D. H. Cole by Dame Margaret Cole

(St. Martin's Press; $10.00)

For some five years now there has been an outstanding promise, repeatedly reaffirmed, that at an appropriate time the world would be apprised of exactly what the new left wanted. To be sure, there has never been a question about what they're against—the Vietnam war, poverty, discrimination, and innumerable other things also opposed by most liberals and even some conservatives. But one important branch of the new left in particular, the new radical economists, have insistently asserted they have a positive program with which to uplift us all, no matter how stubborn and misguided our resistance may be. And unlike other campus rebels, who have cooled it over the past year or so, the radical economists have intensified their pressures in professional meetings, faculty assemblies, and demonstrations in universities around the country, with their most insistent and intriguing demand being: "Listen to us!" Unfortunately, either because time has never permitted or because their subsequent expositions have turned out to be endless, their message has never to my knowledge come across in full anywhere. Their published pamphlets have been equally unenlightening, always declaiming against one social injustice or another, rejecting out of hand all conventional reform, and then stopping.

It was therefore with extraordinary eagerness that I looked forward to the first full-dress statement available of the new radical creed, *Radical Political Economy: Capitalism and Socialism from a Marxist-Humanist Perspective*. Long enough for the purpose, it covers some 430 pages, or about double the size of David Ricardo's celebrated *The Principles of Political Economy and Taxation*. More important, the author is Howard Sherman of the University of California at Riverside, an early leader of the young radicals who proudly states in the first chapter that his book is to be "taken as a manifesto of the radicals in economics, the Union of Radical Political Economics," which is populated today by many bright graduate students, a few undergraduates, and a significant sprinkling of junior faculty members.

In deference to Sherman's fellow URPE members, however, it is only fair to note that no evidence appears that he was duly and formally selected for the task of presenting the collective new radical program. That he was not is a point that some of his colleagues may wish to emphasize, for Sherman's book is a classic in literary schizophrenia, in which an evident compulsion to say something new and startling wars constantly, and most often triumphantly, with good sense and sound economic training.

Thus time and again Sherman will violate all historical, anthropological and other evidence in order to assert, for example, that race and sex discrimination are indigenous to capitalism, from which it naturally follows that to achieve a cure capitalism must go. Or he will proclaim in one part of the book that "the radical view is that the precondition for eliminating pollution and conserving resources is the abolition of the capitalist private-profit system and its replacement by a socially owned and directed system," yet in another part he will acknowledge that air and water pollution are great and growing in the Soviet Union, that Lake Baikal is dead or nearly so, that resource conservation is virtually unknown over there, and that the only reason Russia's air is still purer than the United States' is that the Soviet economy is at a lower stage of development. (The famous Volga has become so heavy with impurities, according to an announcement last week, that a massive emergency program has been launched to protect the health of those living nearby.) Again, the nearly universal concern with population growth, and its threat to the quality of life if not to life itself, is deprecated by Sherman as merely a capitalist plot to solve the racial problem by "pressuring the poor, mostly black . . . into having less babies." Among other things, do we not have a right to expect that an economics professor would know that in fact most of the poor in the USA are white, by latest count 81 percent?

Sherman's fundamental weakness, aside from his proclivity for flamboyant generalizations, is that as he reviews the basic problems of the US economy —irrational resource allocation, poverty, pollution, waste, monopoly, unemployment, inflation, and imperialism—he does so from the preconceived conviction that reform within the system is impossible. Paradoxically, he recognizes that "capitalism" today is vastly different from what it was 50 years ago, and that it currently varies widely in form and content among nations such as Sweden, the United States, Great Britain, Holland, and West Germany. Implicit in such observations is acknowledgement, and here is his schizophrenia again, that reform within the system in innumerable areas has in fact occurred and that the level of living of most westerners has advanced spectacularly. Yet he remains stuck with his premise, along with Marx's vision of "increasing misery," and his prescription for every problem from pockets of poverty to inflation is the same: revolution leading to pure Communism, with a stop-off at socialism, in a pattern less distinguishable from old left Marxism than, let's say, Jacob Javits is from a liberal Democrat. His program offers less immediate promise in the country of his interest, *i.e.*, the United States, than the antivivisectionist movement.

In short, Sherman's new radical creed turns out to be little different from the cruder Marxist analyses of the past, with of course new data added and with kinder words for China and Cuba, and less unqualified admiration for the

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Soviet Union, than has been standard in earlier works. Also in line with old left conventions is his treatment of democratic procedures, under capitalism, as an elaborate sham, a view that reduces efforts at reform to the status of an empty ritual.

Were *Radical Political Economy* a full and accurate account of new left economic thinking, the appeal of the Union of Radical Political Economics to many students and younger professors would stand as one of the unfathomable mysteries of current history. The jejune exhortation to revolt as an answer to every evil from deceptive advertising to Defense Department arrogance can hardly remain inspiring over an extensive period even for youngsters who are not so bright. A reading of other new left literature, moreover, reveals few explicit clues to its appeal, other than what the young radicals would call a "gut feeling" that there *must* be something there. Strangely, that gut feeling is most effectively translated into specific, understandable propositions not in any of the new left's own literary efforts, but in works now several decades old of the generally unrecognized father of modern new left economics, the prolific, iconoclastic British economist, G. D. H. Cole.

Cole was a Fabian socialist all of his life but with sufficient distinctive characteristics to give him a claim, three or four decades before its time, to new leftism. With the Fabians he believed that life for the working classes (and others) could be improved in the present rather than through some cataclysmic change scheduled for an unspecified date in the future. Hence, unlike his many Marxist friends outside the Fabian movement, he plumped for gradual reform. Furthermore he contended, and subsequent events obviously bear him out, that democratic political institutions were flexible and sensitive enough to make substantive reforms possible. In all this he was conventionally Fabian. His new leftism—his link with some of the young radicals of today—appears in four other facets of his thought:

First, he was everlastingly skeptical of the establishment's good will. While reforms were possible, he believed that they had to be wrung from the ruling capitalists through direct action—general strikes, sit-ins, ceaseless propaganda, and political education of the masses. He was aggressive and impatient, and just because of this he split from his more patient Fabian friends on several occasions, only to rejoin them later on because he had no other place to go. Second, he was leery of concentrated, centralized power, whether under capitalism or socialism. While he stressed the need for central planning, he at the same time insisted on widespread individual participation, localized spheres of authority within the central plan, and pluralistic institutions. His own theory of "guild socialism," for which he is primarily famous, was his institutional answer to that problem. Third, he felt that since the establishment could not be expected to direct analytical and statistical studies on the shortcomings of capitalism, anti-establishment reformers had the unceasing obligation to do so—and he himself produced numerous works reminiscent of current new left exposés and muckraking. Finally, Cole was convinced that anything truly important about economic behavior or policy could be expressed in understandable English and reasonably comprehensible statistics. Hence he shared with today's new left a skepticism concerning the activities of most of his fellow economists, who were not only faithful defenders of the *status quo*, but were becoming increasingly engrossed in the construction of highly technical, mathematical models that appeared to shift farther and farther away, the more technical they became, from any of the problems or behavioral characteristics of the real world.

Cole's ideas were neither uniformly brilliant nor in all respects novel. In his own day—his professional life spanned the period from 1912 to 1959—he was recognized as an important thinker, an energetic activist, but no intellectual giant. The tenets of his thought that posthumously appeal to some of the new left, I think, derive their allure mainly from the alienation and impatience that characterized so many of the idealistic and thoughtful younger intellectuals of today. Cole provides a foundation for rejecting the conventional, for aggressively confronting authority, for eschewing materialistic motivations, and for actively shaping institutions, regardless of tradition, to the actual needs of mankind at large. But of course some of the new left, like Sherman, meet him only part way, exchanging his aggressive evolution for utopian revolution.

In the biography of her husband, Dame Margaret Cole sets forth the almost unbelievable range of his activities, from his initial fellowship at Oxford in 1912 through his numerous research directorships in the labor movement, his participation in general strikes, Labour Party politics, union leadership, pioneer efforts in adult education, Fabian Society strategies, as book publisher, newspaper correspondent, constant *New Statesman* contributor and one-time editor, a professor at Oxford, and faithful leader of the "Cole Group" which rivaled the J. M. Keynes circle at Cambridge. And on the side, Cole turned out an astounding flow of 121 books and some 200 pamphlets. True, thirteen of the books were mystery novels, in quality several cuts below those of Agatha Christie; and two were volumes of highly unnotable verse. But nearly all of the remainder were substantial products of research and analysis, including a classic four-volume *History of Socialist Thought*, a three-volume *Short History of the Working-Class Movement*, and such widely read and still cogent works as *Social Theory, Guild Socialism Restated, British Trade and Industry, Past and Present, The Means to Full Employment, The Intelligent Man's Guide Through World Chaos, What Marx Really Meant, Principles of Economic Planning, The Condition of Britain, Money, Trade, and Investment*, an *Introduction to Economic History*, and interesting biographies of William Cobbett and Robert Owen.

But placidly listing and describing these activities constitutes Mrs. Cole's book in full; it resembles most an extravagantly long account of a notable man's achievements in *Who's Who*. There is not one remembered conversation, not a single dramatic scene, a confrontation, a challenge, a tender exchange, an obstacle triumphantly overcome, or a bitter disappointment. Cole as a human being remains an effectively preserved mystery. Only at one point does Mrs. Cole allow herself a non-professional comment. After fathering two children early in their marriage, she says, Mr. Cole's sexual activity, which was never strong, quickly dipped to zero and remained there for the better part of their life together—at least, apparently, so far as she knew. At the same time we are told, although no connection between the events is suggested, that he occasionally "fell in love" with some of his male students or colleagues, a few of whom were or later became prominent in Labour Party circles. But such statements are flatly made with no explanation or elaboration, and occupy little more space than they do in the telling here.

Cole was a great man and had the attributes, potentially, to have been even

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greater. His brilliance is unmistakable in some of his writings and in the testimony of his friends. As already suggested, he has expressed explicitly, and often eloquently, the tenets of new left economics that remain only implicit or inchoate in the present generation's own literary output. Why did he fritter away so much of his time in compulsive scribbling, empty political squabbles, countless "research" projects of purely ephemeral interest, arduous and unrewarding journalism? Perhaps someone someday who knew him better than his wife, or who has the will and the ability to communicate that which perhaps she has withheld, will tell us who he really was.

Melville J. Ulmer

In Brief

The Poems of Mao Tse-tung Translated by Willis Barnstone, and in collaboration with Ko Ching-po

(Harper & Row; $4.95)

Like the coolie shirts Bloomingdale's is selling, this volume has a distinctly entrepreneurial air about it, but it is well done, with the Chinese ideographs on the left and their wholly dissimilar English equivalents on the right. Presumably we must look to the root differences between these languages for explanation of that fascinating mystery for the Western mind: how a political revolutionary can combine business with peach blossoms. For though Western poets have celebrated for decades the evocative particularity of Chinese poetry, and pointed to it as an alternative to the dry and misleading abstractness of our language's propositions, our poets' discoveries have not been taken up by our public men. The separation is nearly complete, so that we have no near precedents to help us to an understanding of Mao when he plays poet. Is it, as it would be with us, an after-hours diversion?—clearly not, for the revolutionary message is continuous and strong. Yet the message is like no message the Western political mind, of any stripe, would imagine issuing *as* political message. Here for example is the last poem in the book, written in 1963:

> We had much to do
> and quickly.
> The sky-earth spins
> and time is short.
> Ten thousand years is long
> and so a morning and an evening
> count.
> The four oceans boil and clouds
> fume with rain.
> The five continents shake in the
> wind of lightning.
> We wash away insects
> and are strong.

An introduction by the translator tells us, partly in Mao's own words, that Mao's education in Western philosophy and literature was thorough but that he also immersed himself in the Chinese classics and didn't really commit himself to the revolutionary life until he was twenty-six. But the introduction doesn't tell us how to conceive of an American President writing the poem above, even if the President were Republican and the insects were Democrats or journalists.

Tight White Collar by John L'Heureux

(Doubleday; $5.95)

The priest goes off to the Protestant funeral, a family affair, unwillingly. On the way on the train he manages to be repulsed by the surrounding humanity, and upon arrival, fawned on by relatives, he feels his isolation grow. Ironically he imagines that should his book, *Jesuit Letters*, appear, "critics would note the total absence of an exterior world." He performs the religious service by the coffin falteringly while thinking the wrong thoughts: "That passage from St. Paul doesn't prove a damned thing"; and "I drink too much. Like Father Portman, they'll have to drag me dead drunk up three flights of stairs on Christmas Eve." His chores ended, he heads for the train again with his parents, whom he manages to offend; and after parting from them he sees his father kiss his mother "gently," at which point he cries to himself "Christ, Christ, Christ," and returns to the seminary fully persuaded of his inhumanity. He is then readying himself, one gathers, to confront his inadequacies by leaving the Church. But the book ends without quite saying that.

Poet John L'Heureux is writing close to the bone here. The irony is heavy, the priest's revulsions are deeply felt. The book is a moving vision of the torments of spiritual solitude.

Passing Go by Ken Schiff

(Dodd, Mead; $5.95)

The "I am writing this from a madhouse" novel seems to be proliferating lately. Ken Schiff's *Passing Go* describes an 18-year-old boy who has been hospitalized due to depression and suicidal feelings brought on by his sister's death. There is a suggestion that incestuous feeling existed between the two of them, but the relationship was evidently never consummated. Mental hospitals no doubt have their share of horrifying events, but the emphasis here seems too much on scenes of inmates on the bathroom floor dabbling in the blood from their own cut wrists, too little on understanding the causes of the pain that would lead to such actions. Perhaps it takes the objectivity of a Chekhov, as in *Ward Number Six*, to involve us in a mad person's view of the world and at the same time make us understand exactly where he and sanity part company.

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Reconsideration

José Ortega y Gasset's *The Revolt of the Masses*

In 1929, when *The Revolt of the Masses* first appeared, José Ortega y Gasset was well known to Spaniards. To them, he was a philosopher and stylist, a journalist and moralist, a professor and potential politician—if the left was ever to be permitted into politics. Only a few months previously, with a show of scornful bravado, he had turned his professorial office into a significant political gesture: the failing dictator, Primo de Rivera, had closed the University of Madrid to prevent student demonstrations against his regime; in response Ortega had hired a large theater and, week after week, continued his course on metaphysics to a growing audience of students, intellectuals, and opposition personages, as well as to much publicity in the papers.

The Revolt of the Masses
by José Ortega y Gasset
Published in 1932
in an anonymous translation
by W. W. Norton & Co.
Currently available in paperback
from W. W. Norton & Co.; $1.50.

With Ortega, this publicity had not caught hold of some surprised pedant, a philosopher unconcerned with public affairs and unwilling to write for effect. On the contrary, for 25 years, Ortega had been a radical polemicist, a philosopher, to be sure, but one who delighted, as he put it, in writing "esthetics on a trolley car." Schooled in the national self-examination that followed the War of 1898, he took as his mission the task of awakening in his fellow Spaniards a respect for intellect, a contempt for political venality, and a desire for social reform. Over the years, many had learned to revere or revile him, seeing that with his persistence, with his limpid style, stinging sarcasm, and reformist vigor, he was managing to push Spaniards perceptibly closer to European standards. Thus he had become known as the Europeanizer, *par excellence*.

To gain a position from which he could better plant his Europeanizing goads, Ortega had taken several important initiatives in publishing. He had helped to found *España*, a lively weekly journal of politics and the arts, and he created, owned, and directed *Revista de Occidente*, the most prestigious monthly in the Spanish language. Furthermore, he helped edit and frequently wrote for *El Sol*, a powerful Madrid newspaper, politically independent and intellectually authoritative, one of the great dailies of the world during the inter-war years. Up to the Spanish Civil War, most of Ortega's writing first came out in *El Sol:* editorials, lectures, hundreds of political commentaries, and numerous series on special topics that, when later collected, became some of his most familiar books. Significantly, these latter were not written first as books, but as pithy essays, 1500 to 3000 words long, tailored to be read by a particular audience at a particular time.

On the morning of October 24, 1929, *El Sol* ran the first installment of *The Revolt of the Masses*. Within a month, it had carried ten; then the series lapsed for seven weeks; after which the remaining seventeen sections appeared at the rate of roughly two a month from January through August. Only then was the book pulled together by reprinting the articles unchanged in the order in which they had been published. At the time, Ortega did not realize he was putting out a world-wide bestseller; thinking the book would go to people who knew of it and him through his journalism and other writings, he issued it without a prefatory word. But when the book caught on, finding readers far and wide, he regretted this decision; he wrote a "Prologue for the French," a "Prologue for the Germans," and an "Epilogue for the English"; and the Spanish version has grown with explanatory matter until it is more than half again as long as the original.

Not so the American. A certain game manliness, proof of an editorial *machismo*, may be found in the decision to publish the American version without a word of introduction. But this choice, reaffirmed in ensuing editions, has meant that American readers, outside an occasional Hispanicist, have not been alerted to the work's journalistic origin, with the resultant strong statements and striking images, the repetitions and haltingness of argument. But whatever formal defects the book acquired from its origin, Ortega felt these well worth a substantive gain. To him, good journalism was not a popularizing debasement; the good journalist who wrote close to the moment of his lived experience was the man most likely to speak the truths of life.

This view did not stem merely from pride of profession; Ortega founded his whole philosophy on *life*—not on soul or spirit, not on physico-chemical processes, but on life as it is lived in its drama, its occasionality, its circumstantiality, its integral risk and uncertainty. He insisted that the meaning of every statement was conditioned by the occasion of its utterance; its truth and error inhered in the life of he who uttered it. As a result, most of that which pretends to be social science Ortega disdained for its dead will to abstraction, for its flight from circumstantiality. To him, human praxis was not to be guided by abstract theory, no matter how sophisticated in concept or confirmed in empirical tests. At bottom, men acted, not on knowledge, but on problems; hence in actuality, human activity was guided by a complicated, functioning problematic. Thus *The Revolt of the Masses* is a proclamation in the first person; its sentences are decidedly declarative, and any meaning beyond the writer's factual report that this was how he perceived things to be when he wrote depends entirely on each person's personal concurrence.

Yet translation betrays: at the crucial point of circumstantial validation, the degree to which the American version obscured the circumstances of the original left the work highly susceptible to misinterpretation. Ortega conceived the series in 1928 as the great prosperity approached the brink; in it he foretold collapse and identified the financier as the archetypal mass-man, uncomprehending yet needlessly confident and smugly satisfied with his incompetent success. In 1932 the American version appeared in quite different circumstances that quite changed the meaning, for unprepared readers, of the word "masses." Ortega was committed to an idiosyncratic meaning for it, seeing the masses as the class of men whose personal character was inert, an immobile mass like that measured in physics, and he used the term with abandon against Spain's bumbling elites. But in 1932 few Americans knew anything about José Ortega y Gasset, and most either feared or pitied the "masses" as the

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hordes of hungry unemployed. Thus the book seemed to sound a flamboyant warning against the fast-growing welfare state. Suffice it to say that such was not the case.

What was the case, then? Ortega averred that in the world that he experienced two fundamental developments were operating, one way or another, in the life of each person, complicating his personal, interpersonal, and public conduct. First was the spread of affluence, and second the increasing blindness and mechanization of large institutions (including nations) as they set their long-term goals.

Ortega described how affluence was having portentous effects on the character development of each person, particularly on the mass-man. Those who enjoyed the basic benefits of industrial democracy—the upper and middle classes, intellectuals and big labor—were prone in crisis to use the state's monopoly of force to suppress any movement that augured uncertain departures from established ways. Ortega described how the mass-man, coddled by affluence, set the public tone, and alert Spaniards of 1929 would have found his analysis of mass-man's self-satisfaction, his reliance on direct action, his technical barbarism, his dangerous statism, to have been a telling dissection of General Primo de Rivera and all he stood for. So too acerb Americans of 1972 will find it to be a significant anatomy of John Mitchell, Spiro Agnew, and all they represent.

The second great problem: the 20th-century nation-state had become a spiritual impediment that had to be transcended if the man of comfort were to find a demanding idea towards which to aspire. At the very time when Europeans needed a large sense of the future, the successful institutionalization of the nation-state left each with stunted aspirations, and thus the European "has discovered that to be English, German, or French is to be provincial." With penetration Ortega observed that "it is not institutions, *qua* instruments of public life, that are going badly in Europe; it is the tasks on which to employ them." Then and now, the "great powers" seem incapable of applying their power to an historic enterprise that is worthy of their pretensions to greatness; instead they build Maginot lines and fight mechanistically in Vietnam. The constructive invitations to concerted action that might spontaneously incite people to common undertakings within the nation-states had been basically fulfilled. The only new national movements that might develop would be dangerous perversions, involutions of the spirit; and either such manias or more stasis would do nothing to counter the debilitating effects of affluence on the mass-man.

Ortega was not very hopeful. But he thought that something good could develop if Europeans could somehow find the strength to aspire beyond the nation-state. "Europe has been built up in the form of small nations. In a way, the national idea and sentiment of nationality have been her most characteristic invention. And now she finds herself obliged to exceed herself. This is the outline of the enormous drama to be staged in the coming years. Will she be able to shake off these survivals, or will she remain forever their prisoner?" To shake off the nation-state Europeans had first to recognize that the offices of *national* politics, economics, society, law, art, literature, schooling, and scholarship had all been developed; these merely awaited the men who would perform them, who had merely "to take office" as the phrase goes. Then, the Europeans' whole perception of life could change, opening to a great sense of possibility, as they recognized that the offices of *European* life, of its politics, economics, society, law, art, literature, schooling, and scholarship, were yet to be invented. Each embarking in his own way on such a creative effort, the European might find, without catastrophe or renouncing his affluence, a new frame of reference by which he would perceive his advantages, not as cause for complacency, but as occasions for discontent with the given and hope for the possible.

With 40 years of retrospect, Europeans may take some comfort from Ortega's desire, voiced in *The Revolt of the Masses*, for transcending the provinciality of the nation-states, but only in a narrow view. Like the rebellion of the masses itself, the problem arising from the basic fulfillment of national offices is a problem not confined to Western Europe. In recent years many Americans have realized that however efficiently our institutions have functioned, some of the tasks on which we employ them have been going badly: our policies, domestic and foreign, are not worthy of our pretensions. This is a sign that now our repertory of national aspirations is also a repertory of stunted aspirations, which, if not transcended, could lead to paralysis and destructive instability. The offices of American life are there to be taken by ambitious men, while the young, emotionally moved by an unfulfilled idealism, seem increasingly stifled by a bitter frustration. Therefore, the enormous drama to be staged in coming years is still the one Ortega suggested—whether Westerners can transcend their traditional idea of the state. But should that transcendence end simply in a United States of Europe, it would merely seem to substitute another unstable parochialism for that now in force: thus the limit of Ortega's aspiration is the challenge of our own.

Robert McClintock

Correspondence

Unemployment

Sirs:

As the person directly responsible for the statistics on employment and unemployment, I was disturbed by your article on the "Invisible Unemployed (Feb. 26)." The article creates the impression that the Bureau of Labor Statistics has been hiding some of the country's jobless persons under a statistical carpet. That is not the case.

The BLS publishes regularly a vast amount of data about all persons of working age, whether they are employed, unemployed, or outside the labor force. With regard to the persons outside the labor force, the Bureau has taken several special steps in recent years to determine who they are, whether they are interested in working, and, if so, why they are not looking for a job. Far from being made available only upon request, as your article stated, detailed data on these persons are published every quarter in *Employment and Earnings*, one of the Bureau's major periodicals. Moreover, these data have also been the topic of special BLS reports. One such report, focused especially on the "discouraged workers," that is, those persons who want a job but who do not look for one because they think their search would be in vain.

While some persons think that the "discouraged workers" should be included with the unemployed, President Kennedy's Committee to Appraise Employment and Unemployment Statistics (more familiarly known as the Gordon Committee) did not think so. The Committee specifically recommended that these persons not be included in the unemployment count but

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be counted separately. The reasoning behind this recommendation, which we have followed, was that in order to be considered as unemployed a person should actually have tested the job market within a reasonably recent period.

The measurement of the extent of discouragement over job prospects which may exist among workers at any given time is, of course, difficult, since it involves the quantification of what are essentially subjective phenomena—one's desire for work and one's perception of the conditions of the job market. We try to gauge this by means of one of the largest household surveys conducted anywhere in the world and through as objective a sequence of probing questions as we have been able to design. Our figures do not show that there has been any vast increase in the number who are not looking for work because they think no jobs are available. From 1969 to 1971 the increase was about 200,000, or about a tenth as large as the increase in unemployment.

Other economists, such as Mr. Tella, have been estimating the extent of discouragement, or "hidden unemployment," by means of econometric models. In connection with our constant reevaluation of the concepts and definitions which we use in our own data collection, analysis, and publication process, we have closely examined these econometric methods. We have concluded, at least for the present, that such methods do not yield data which are as closely in touch with current reality as are the results of a large monthly survey.

Geoffrey H. Moore
Commissioner
Bureau of Labor Statistics

Diplomacy

Sirs:

In the February 12 issue ("Downgrading Japan"), you chastised the Nixon administration's choice of Mr. Ingersoll as a candidate for Ambassador to Japan. Although I am no avid supporter of the President, I disagree with your analysis of Marshall Green as a "seasoned, skillful, and sensitive" diplomat. During Premier Sato's recent visit to San Clemente which was surrounded by mistrust, Mr. Green hardly displayed the attributes of a "sensitive" representative of our government. Mr. Green did little to soothe the situation by mocking the Japanese difficulty in pronouncing the L and R sounds. Mr. Green, quoting the *St. Louis Post Dispatch* of January 16, reportedly said to a high Japanese diplomat, "Rong rive riberty." As we continue our undeclared economic war on the Japanese, an experienced businessman may be the best mediator to deal with political leadership which represents the majority of Japanese industrialists.

D. Lee Hamby
Southern Illinois University

Kauffmann, *from page 22*

the camera for a moment on Chambrun's silence.

Small keen revelations abound. Mendès-France recalls his nighttime escape from a Vichy prison into a tree-lined street (something like Bresson's *A Man Escapes)* and how he had to linger on top of the wall until a pair of lovers below decided to go home to bed. The English secret agent says that one reason for his (very courageous) service was that he is a homosexual and wanted to prove himself. The Grave brothers (like farmers out of Rouquier's *Farrebique)* take us down into their old wine-cellar for a glass, commenting that they've been down those steps a good many times in their long lives; and Louis Grave tells us that he refused to revenge himself after the war on the neighbor whose denunciation sent him to Buchenwald. ("What for?" he asks with quiet acceptance of more than we will ever see.) La Vigerie, a founder of the Liberation movement, tells us with humorous candor that he thinks most people who came into the Resistance were maladjusted. (Something like Koestler's theory about radicals.) The German ex-soldier says that it's just as well his country lost the war or else they'd all now be doing Occupation service in Africa and America; and in his *Lederhosen* he takes another sip of beer. (On the other hand, I've met veterans of the *Wehrmacht* and *Luftwaffe* who hold views of their service very different from any German in this film.)

Another technique has to be praised highly: the dubbing. In a picture of this kind, where there is so much talk and where there is no acting, probably dubbing was the best solution to the language problem. The English is presented as *translation*, not as lip-sync replacement. A speaker starts in his own language, and then his voice is faded under an English-language translation. Not a novel device, but it's used very carefully here, with voices that sound apt.

One more production point. This film was sponsored by three television networks, French, Swiss, and German. Switzerland is not mentioned in the film. France and Germany are often shown unflatteringly. The film has been broadcast on German TV, not French. (Although it has played in French theaters.)

The Sorrow and the Pity is, first, a record. It was important that these statements, from chiefs to a hairdresser who served 15 years for collaboration, should be preserved, both as they support and contradict what happened.

Second, it is a reminder. History consists, for the most part, of material we never knew or material we have forgotten: no one can keep the whole past on the leading edge of his mind. (I had completely forgotten Mers-el-Kebir, in which the British killed 1600 French sailors. Lord Avon makes perfectly clear the hard decision his government had to make, to keep the French ships out of German hands; still, those were 1600 people, too.) Without the maximum possible knowledge of the past, especially the immediately antecedent past, we know little of who we are and even less of what we ought to do.

Third, most important from any view, *The Sorrow and the Pity* is a fine film. This "hodgepodge" is so well made that its very existence is a statement about its subject. Frank interviews and ironic contrasts are not new. But to put all the elements of this picture in reciprocating balance, moved by internal rhythms, framed by a sharp pictorial eye, guided by a good political intelligence, is to make history into art. Through the richness of the work, through the experiencing of it *as film*, the facts deepen. When we see the Grave brothers in their fields, with the exquisite Auvergne hills behind them, we understand a little more of both the sorrow and the pity.

There is no neat lesson to be drawn, no high-hearted resolve with which to leave the theater. Frenchmen are not Martians, they are our kinsmen—the heroes and the collaborators and the great mass of the apathetic. We all remember Stephen Dedalus saying, "History is a nightmare from which I am trying to awake." Ophuls implies that Dedalus was wasting his time; there is no awakening. One is more sensible to try for a little decency within the nightmare.

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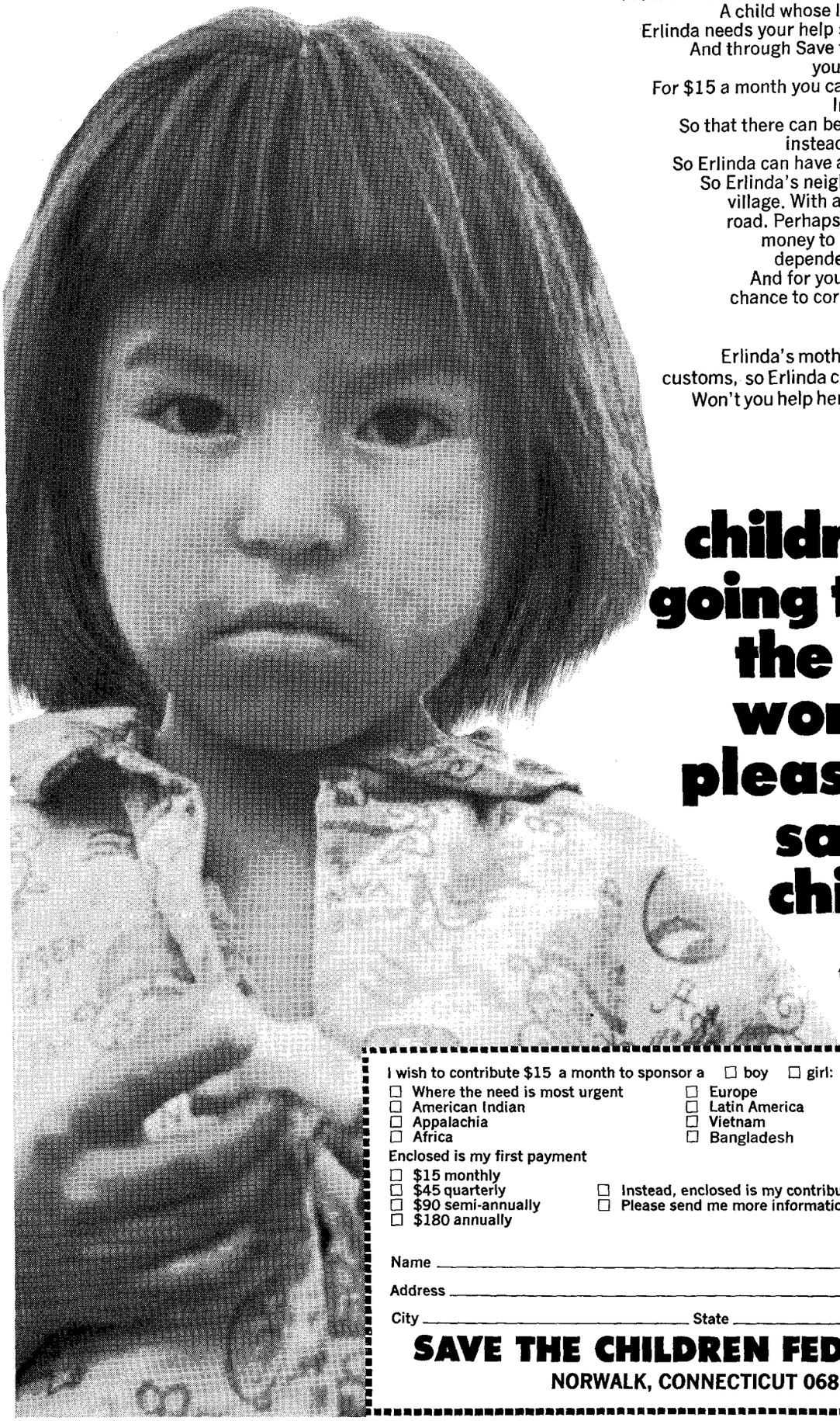

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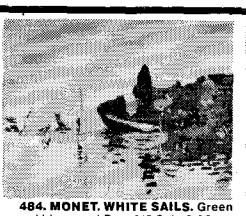

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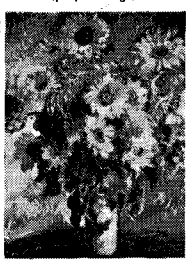

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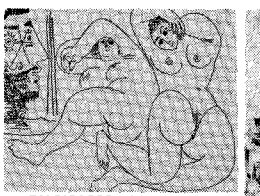

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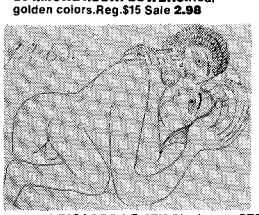

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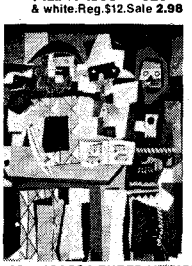

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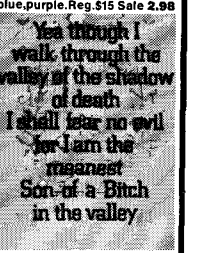

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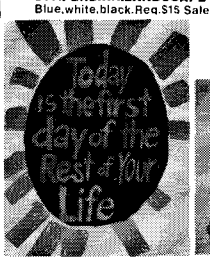

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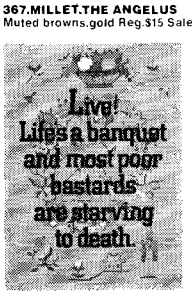

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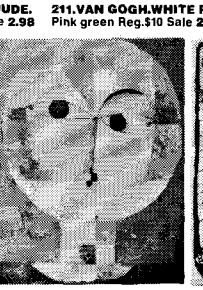

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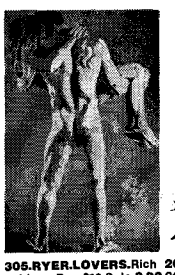

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